



# Agenda

Meeting: **Licensing Sub-Committee**  
Date: **12 January 2023**  
Time: **10.00 am**  
Place: **Council Chamber - Civic Centre Folkestone**

To: **To Councillors Jim Martin, Philip Martin and David Wimble**

The sub-committee will consider the matters listed below at the date, time and place shown above. The meeting will be open to the press and public.

Members of the sub-committee who wish to have information on any matter arising on the Agenda which is not fully covered in these papers are requested to give notice prior to the meeting to the Chairman or appropriate officer.

This meeting will be webcast live to the council's website at <https://folkestone-hythe.public-i.tv/core/portal/home>.

Although unlikely, no guarantee can be made that Members of the public in attendance will not appear in the webcast footage. It is therefore recommended that anyone with an objection to being filmed does not enter the council chamber.

***Please note there will be 37 seats available for members of the public, which will be reserved for those speaking or participating at the meeting. The remaining available seats will be given on a first come, first served basis.***

1. **Election of Chairman for the meeting**
2. **Apologies of absence**
3. **Declarations of interest (Pages 3 - 4)**

**Queries about the agenda? Need a different format?**

Contact Sue Lewis – Tel: 01303 853265  
Email: [committee@folkestone-hythe.gov.uk](mailto:committee@folkestone-hythe.gov.uk) or download from our website  
[www.folkestone-hythe.gov.uk](http://www.folkestone-hythe.gov.uk)

Members of the Council should declare any interests which fall under the following categories:

- a) disclosable pecuniary interests (DPI)
- b) other significant interests (OSI)
- c) voluntary announcements of other interests

4. **Declarations of lobbying**

Members should complete the enclosed yellow form and return it to the Committee Administrator at the meeting.

5. **An application for a Premises Licence in respect of: The Nook, 43 Tontine Street, Folkestone (Pages 5 - 24)**

This report outlines the application made by Mr James Canter for a Premises Licence for this premises. The Licensing Sub-Committee must determine the outcome for the application.

6. **Exclusion of the public**

**To exclude the public for the following item of business on the grounds that it is likely to disclose exempt information, as defined in paragraph 2 of Part 1 of Schedule 12A to the Local Government Act 1972 –**

**‘Information which is likely to reveal the identity of an individual.’**

7. **Review of whether a licence should be granted to a new Private Hire driver (Pages 25 - 42)**

This report considers whether a Private Hire Driver licence should be granted.

## **Declarations of Interest**

### **Disclosable Pecuniary Interest (DPI)**

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

### **Other Significant Interest (OSI)**

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

### **Voluntary Announcement of Other Interests (VAOI)**

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

#### **Note to the Code:**

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

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This report will be made public on 4 January 2023



Report Number **DCL/22/49**

**To:** Licensing Sub-Committee  
**Date:** 12<sup>th</sup> January 2023  
**Status:** Non-Executive Decision  
**Head of service:** Ewan Green

**SUBJECT:** An application for a Premises Licence in respect of: The Nook, 43 Tontine Street, Folkestone.

**SUMMARY:** This report outlines the application made by Mr James Canter for a Premises Licence for this premises. The Licensing Sub-Committee must determine the outcome for the application.

**REASONS FOR DETERMINATION:**

The Committee is asked to consider the application for a Premises Licence. When considering the application the Committee must ensure they fully promote the licensing objectives. The Committee is obliged to have regard to the revised national section 182 guidance and the council's own licensing policy.

**DETERMINATION:**

The Licensing Sub-Committee is asked to:

1. Note the contents of Report
2. Determine the application. The options for determining the application are set out in section 4.

## 1. BACKGROUND

- 1.1 The Licensing Act 2003 provides that the sale or supply of alcohol on and off the premises and other licensable activities must be authorised by a premises licence.

A premises licence holder must comply with the four licensing objectives:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance
- The protection of children from harm

## 2. APPLICATION

- 2.1 On the 8<sup>th</sup> November 2022 Mr Canter submitted a completed application for a new Premises Licence at The Nook.

The application is for:

Supply of alcohol On Sales – Monday-Sunday 09.00 – 22.30  
Recorded Music – Monday-Sunday 09.00 – 23.00  
Opening Hours – Monday-Friday 09.00 – 23.00 Sat & Sun 10.00-23.00

The application is for music to be indoors and outside in their courtyard area. The applicant intends to hold DJ music events on either a Friday or Saturday night, once every 2 weeks.

The application for a Premises Licence can be seen at Appendix 1.

- 2.2. When consulted, Planning highlighted the following planning permissions: No live music anywhere on the premises and no speakers on the outside terrace. However, DJ music is usually considered as recorded music so it is not entirely clear whether there would be any planning conditions that would need amending. We would recommend that the applicant consult with Planning if the licence is granted, to ensure they meet the regulations.

## 3. RELEVANT REPRESENTATIONS

- 3.1. This Hearing has been required by the Licensing Act 2003 because valid representations were received from members of the public and from a Responsible Authority.

<b>Responsible Authority</b>	<b>Comments</b>
Home Office - Immigration	None
Kent Police	None
Environmental Health (Pollution)	Representation

Environmental Health (Commercial)	None
Kent Fire and Rescue	None
Planning	None
Child Protection Agency	None

We have also received one representation from a member of the public.

Kent Police have not objected but have requested a more detailed Operating Schedule be applied and the applicant has agreed to add these to his application. These can be seen at Appendix 2.

The representations can be found at Appendix 3.

#### **4. OPTIONS**

4.1. The Licensing Sub-Committee has the following options:

- a) Grant the Application
- b) Grant the Application with amendments
- c) Add conditions to the Licence
- d) Reject whole or part of the Application

4.2. The Committee is asked to note that it may not add conditions or amend the licence merely because it considers it desirable to do so. The Committee must only consider evidence that relates to the 4 Licensing Objectives. Any conditions added must promote the Licensing Objectives.

#### **5. CONTACT OFFICERS AND BACKGROUND DOCUMENTS**

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Briony Williamson, Licensing Specialist  
 Telephone: 01303 853475  
 Email: [briony.williamson@folkestone-hythe.gov.uk](mailto:briony.williamson@folkestone-hythe.gov.uk)

##### **Background documents:**

Current Licensing Policy is available under the Policies section of the website:

<https://www.folkestone-hythe.gov.uk/your-council/policies-plans-and-documents/policy-documents>

The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available at:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

The Committee members are advised to read the new guidance thoroughly. Your attention is drawn to paragraphs 9.42, 9.43 and 9.44 in respect of the determination of the application. Additionally members are advised to refer to section 10 about imposing conditions. It is also good practice that if they propose to apply conditions they should be discussed with the applicant prior to the determination to ensure that they are proportionate.

**6. APPENDICES**

Appendix 1. Application for a Premises Licence

Appendix 2. Operating Schedule additions recommended by Kent Police

Appendix 3. Representations



# Folkestone & Hythe District Council

(Page 1 /20)

Your name

**James Canter**

Email

[Thenookfolkestone@gmail.com](mailto:Thenookfolkestone@gmail.com)

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(Page 2 /20)

Postal address of premises (inc postcode) or, if none, ordnance survey map reference or description

**43 Tontine Street, Folkestone, Kent, CT20 1JT**

Telephone number at premises (if any)

**07557887376**

Premises band (check the Non domestic rateable value Main fee levels - [GOV.UK](http://GOV.UK) . This will be used to calculate the correct fee)

**A**

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## Applicant details (Page 3 /20)

In what capacity are you applying for the premises licence?

**as a limited company/limited liability partnership**

Please confirm one of the following

**I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities**

Details of applicant

Full name

**The Nook Folkestone Ltd**

Address (inc postcode)

**43 Tontine Street, Folkestone, Kent, CT20 1JT**

Registered number (where applicable)

**12462349**

Description of applicant (for example partnership, company, unincorporated association etc.)

# Folkestone & Hythe District Council

Director in a limited company

Contact number

**07557887376**

Email

[thenookfolkestone@gmail.com](mailto:thenookfolkestone@gmail.com)

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(Page 4 /20)

When do you want the premises licence to start?

**28/10/2022**

If you wish the licence to be valid only for a limited period, when do you want it to end?

Please give a general description of the premises

**The premises is a small-medium sized cafe in Folkestone, located on Tontine Street. We have a small inside seating area with space for around 30 people maximum. We have two outside seating areas to the exterior with space for around 40 people maximum. At the front of the cafe we have two small tables and chairs with space for 4 people. Currently we are open Tuesday-Sunday and only in the day.**

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

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(Page 5 /20)

Provision of regulated entertainment (tick all that apply)

- **Recorded Music**
- **Supply of alcohol**

- recorded music

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**Recorded Music (Page 7 /20)**

Monday Start Monday Finish

**9am            11pm**

Tuesday Start Tuesday Finish

**9am            11pm**

Wednesday Start Wednesday Finish  
**9am 11pm**

Thursday Start Thursday Finish  
**9am 11pm**

Friday Start Friday Finish  
**9am 11pm**

Saturday Start Saturday Finish  
**9am 11pm**

Sunday Start Sunday Finish  
**9am 11pm**

Where will the live music take place?  
**Indoors and in the courtyard**

Further details

**We would like to host semi regular live music events at the café. These would most likely be held bi-weekly from the licence starting. Primarily these events would be held indoors, however if weather is good enough in Summer evenings would like to have events also held in the courtyard.**

.....  
Seasonal variations for the performance of live music

Details of where you intend to use the premises for live music at different times to those listed

**There will only be live music performed in the times listed**

### **Supply of alcohol (Page 15 /20)**

Monday Start Monday Finish

**9am 10.30pm**

Tuesday Start Tuesday Finish  
**9am 10.30 pm**

Wednesday Start Wednesday Finish  
**9am 10.30 pm**

Thursday Start Thursday Finish  
**9am 10.30pm**

Friday Start Friday Finish  
**9am 10:30 pm**

Saturday Start Saturday Finish  
**9am 10:30pm**

Sunday Start Sunday Finish  
**9am 10:30 pm**

Where will the supply of alcohol take place?

**On the premises**

Seasonal variations for the supply of alcohol

**Bank Holidays 11.00pm**

# Folkestone & Hythe District Council

Details of where you intend to use the premises for the supply of alcohol at different times to those listed.....

**Alcohol will only be served in the times listed**

**State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor. (Page 16 /20)**

Full name

**James Canter**

Date of birth

**22/03/1995**

Address (inc postcode)

**6 Mill Bay, Folkestone, Kent, CT20 1JG**

Personal licence number (if known)

**LN/000007115**

Issuing licensing authority (if known)

**Dover District Council**

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children

~~We do not anticipate having any adult entertainment, services or activities that may.....~~  
**give rise to concern in respect of children.**

**Hours premises are open to the public (Page 17 /20)**

Monday Start Monday Finish

**9am**

**11pm**

Tuesday Start Tuesday Finish

**9am**

**11pm**

Wednesday Start Wednesday Finish

**9am**

**11pm**

Thursday Start Thursday Finish  
**9am 11pm**

Friday Start Friday Finish  
**9am 11pm**

Saturday Start Saturday Finish  
**10am 11pm**

Sunday Start Sunday Finish  
**10am 11pm**

Any seasonal variations  
**Bank holidays 11.30**

Details of where you intend the premises to be open to the public at different times to those listed1

**~~As stated previously, we would like to hold DJ events at the café on a bi-weekly basis,...~~ either on a Friday or Saturday night. On such events the closing time of the café would be later than listed above. The closing time of the café at these events would be 11pm latest and final drinks would be served no later than half an hour before closing time.**

**Describe the steps you intend to take to promote the four licensing objectives (Page 18 /20)**

General – all four licensing objectives

**A Personal Licence holder will be at the premises at all times when alcohol is being sold or regulated entertainment is being provided. A “No Smoking” area of such a size and design that it genuinely provides a suitable area for customers wishing to be separated from smoking areas is available. There are sufficient , competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the licence and for preventing crime and disorder.**

The prevention of crime and disorder

**A notice will be displayed at the entrance to the premises advising that C.C.T.V. is in operation. If the C.C.T.V. equipment fails, then Police and the Licensing Authority will be informed immediately by telephone and immediate steps will be taken to put the equipment back into working order. Customers will not be permitted to take open containers of alcohol or soft drinks from the premises. All bottles and glasses are to be removed from public areas as soon as the contents have been drunk or are empty. Bottle bins for collection or empty bottles will not be accessible to members of the public. We have a proof of age policy that has been formulated in discussion with the Police and the Licensing Authority. A drugs register will be maintained. A secure area for customer’s personal belongings is available. We provide food that is available at all times when the premises are open.**

Public safety

**All exit doors are easily operable without the use of a key, card, code or similar means. Exit doors are regularly checked to ensure they function satisfactorily. Step and stair edges are appropriately highlighted so as to be conspicuous. Curtains, hangings and**

**temporary decorations are located so as not to obstruct exits, fire safety signs or fire-fighting equipment. Notices detailing the actions to be taken in the event of fire or other emergency are prominently displayed and maintained in good condition. Adequate and appropriate First Aid equipment and materials are available**

# Folkestone & Hythe District Council

on the premises. In the absence of adequate daylight suitable and sufficient artificial lighting is provided and maintained in any area accessible to the public. Emergency lighting is installed and regularly maintained. The premises have current and suitable Public Liability Insurance in the sum of £2 million. A certificate will be obtained each year and displayed at the premises. The premises have current certificates of inspection for all portable fire fighting equipment. An inspection is carried out every year and new certificates will be obtained at these intervals. The premises have a current certificate of inspection for the fire detection alarm. An inspection is carried out every year and a new certificate will be obtained at these intervals. Free drinking water will be available at all times when the premises is open to the public and taps are labelled as such. Seats are available to accommodate 100% of the maximum capacity of the premises.

The prevention of public nuisance

A noise management plan has been devised and is in operation at the premises. Prominent, clear and legible notices are displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly. Disposal of empty bottles into waste receptacles outside the premises will not be permitted to take place between the hours of 23:00 hrs and 07:00 hrs to minimise disturbance to nearby occupiers. Refuse receptacles are cleaned with disinfectant at least weekly. All external lighting, including floodlighting, is directed away from adjacent occupiers. The premises has a waste collection contract with Countrystyle who remove waste.

The protection of children from harm

The premises operates a proof of age policy that has been agreed by the police. When children are allowed on the premises, a “no smoking” area of such a size and design that it genuinely provides a suitable, comfortable area for children and families wishing to be separated from smoking areas will be available. A crime prevention policy agreed by the police and local authority is in place.

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## Additional information (Page 19 /20)

Upload a plan of the premises

**The Nook Floor Plan\_220909\_121209.pdf**

Upload the consent of individual to being specified as premises supervisor

**Approval Nook.pdf**

Upload proof of entitlement to work in the UK (see guidance notes on website)

**received\_120332000954678851.jpeg**

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## Declaration (Page 20 /20)

- (Applicable to individual applicants only, including those in a partnership which is not a

# Folkestone & Hythe District Council

limited liability partnership) I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).

The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15) .

- FHDC will send copies of this application and plan to responsible authorities and others where applicable, on my behalf.

I understand that I must advertise my application.

- I understand that if I do not comply with the above requirements my application will be rejected.

I am authorised to act on behalf of all applicants where there is more than one applicant.

Full nameDate

**James Canter 09/09/2022**

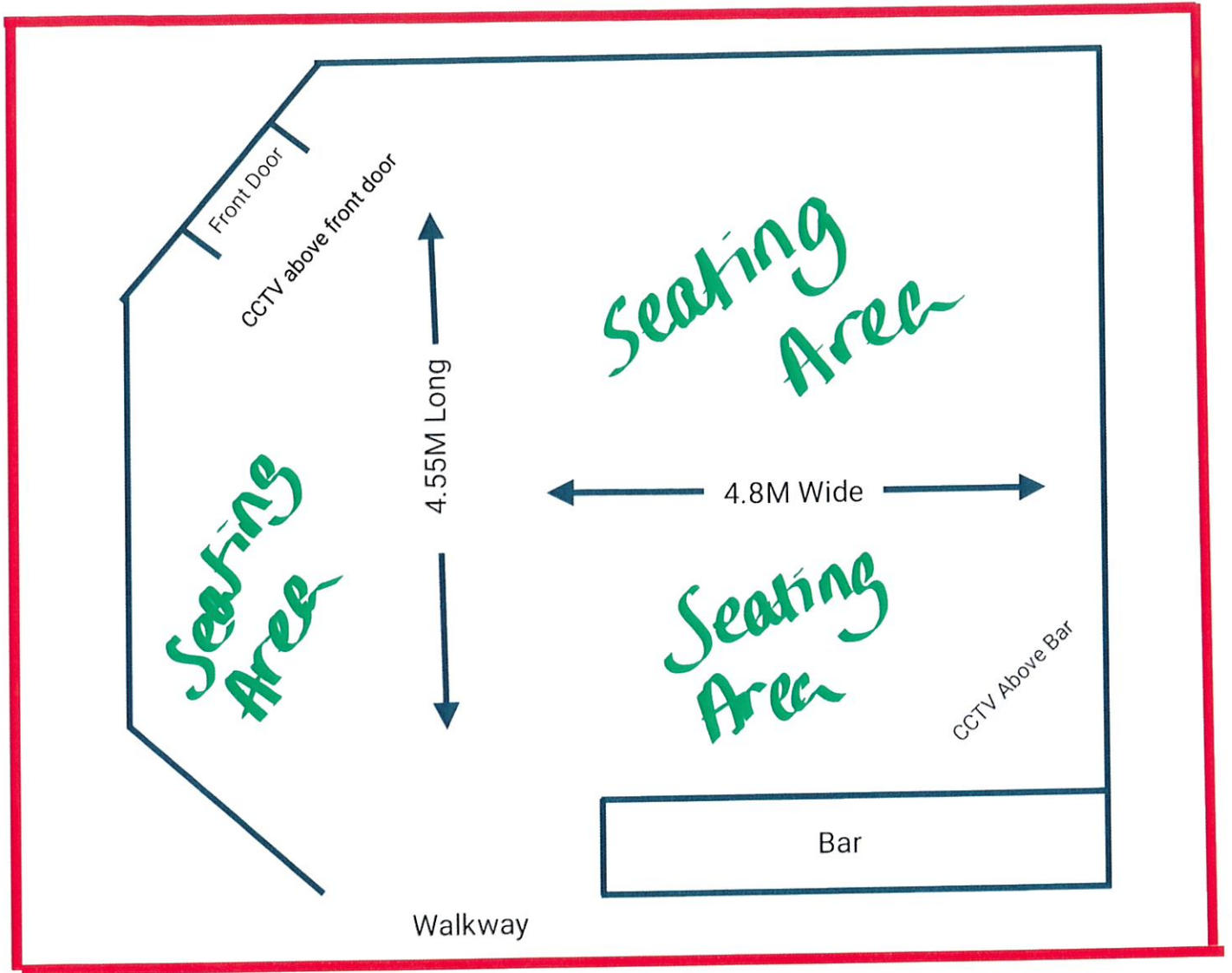
Capacity  
**Director**

.....



①

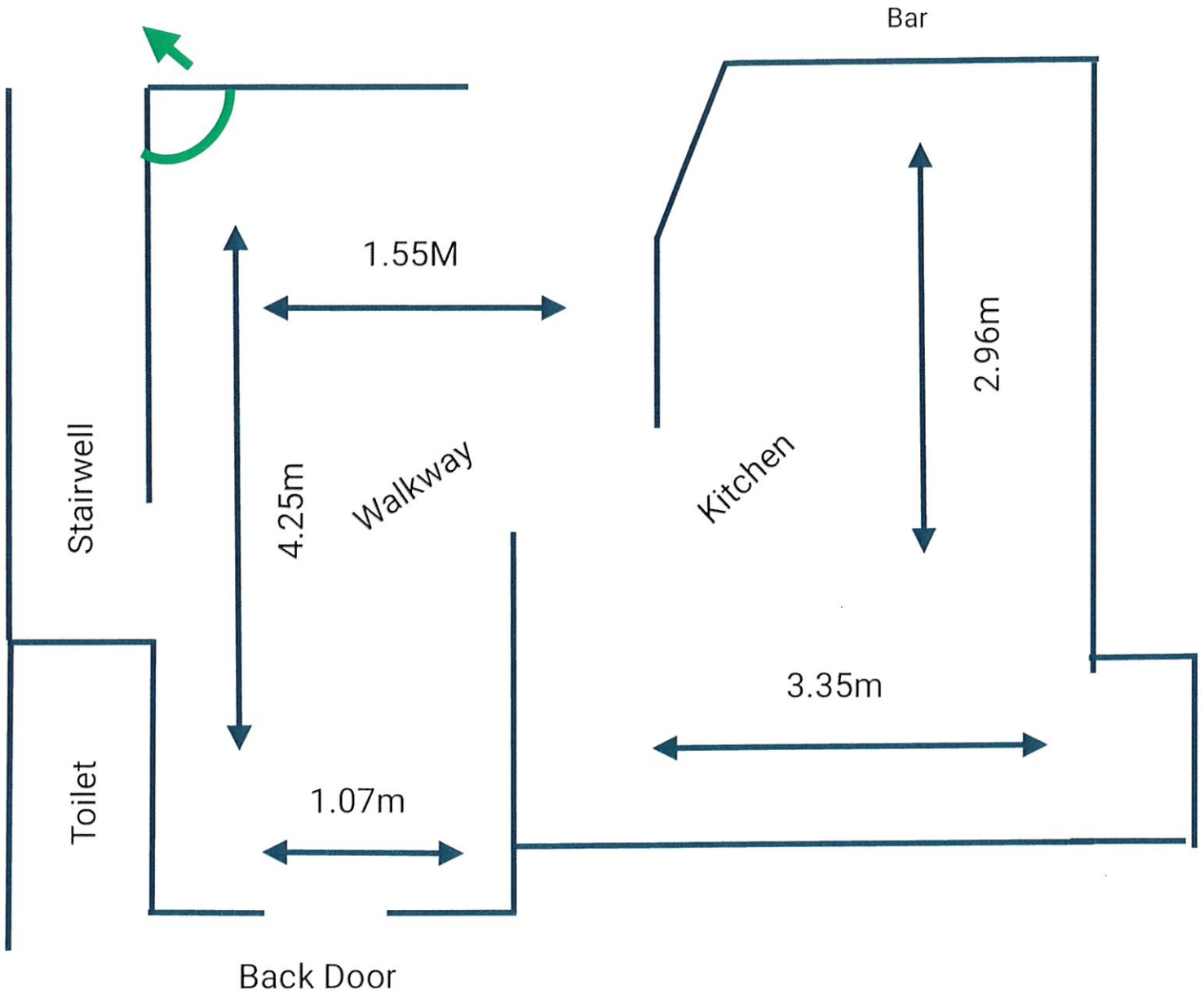
Main Seating Area



2

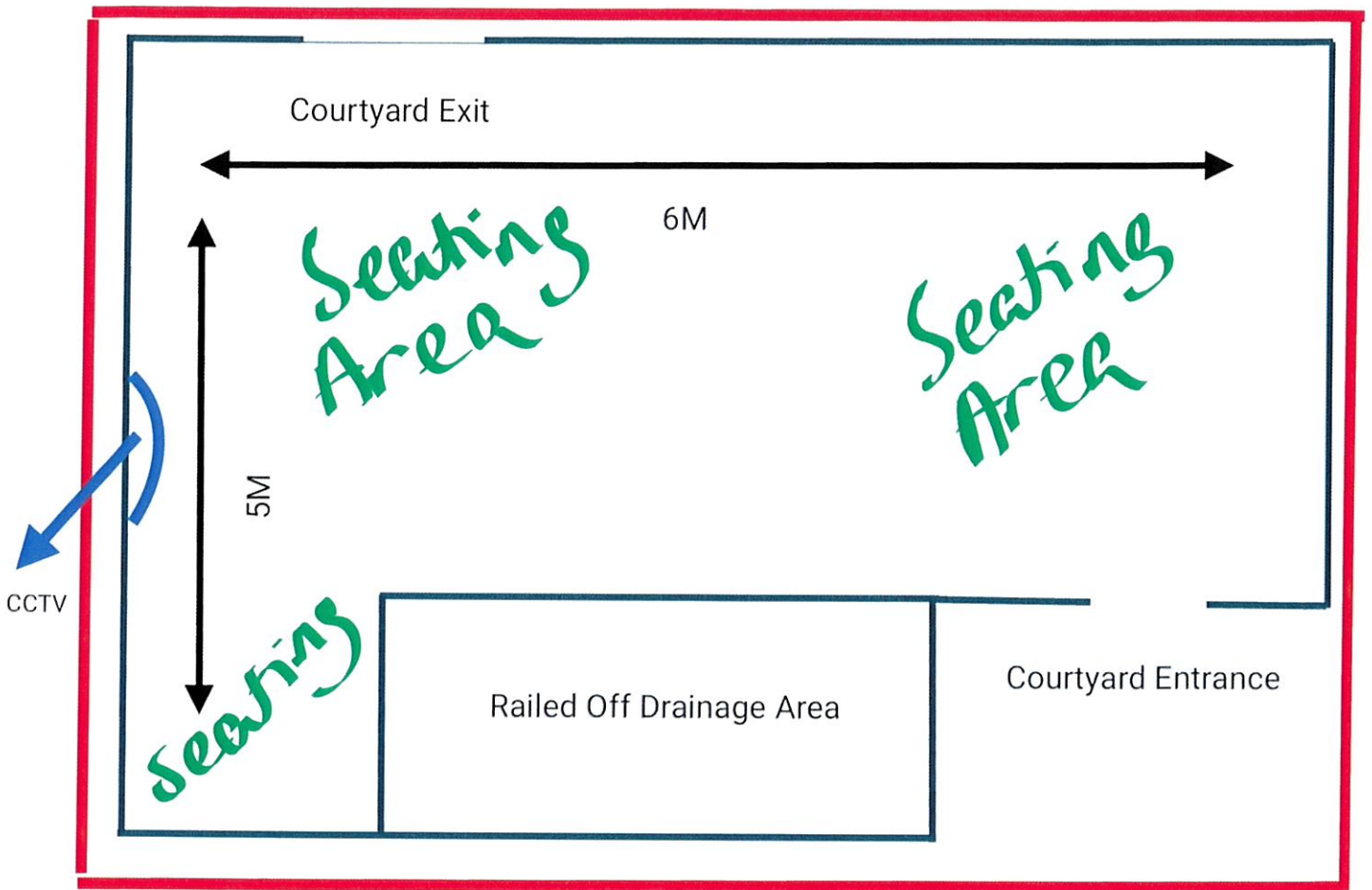
### Walkway from Bar to Exit

CCTV in direction of toilets/exit



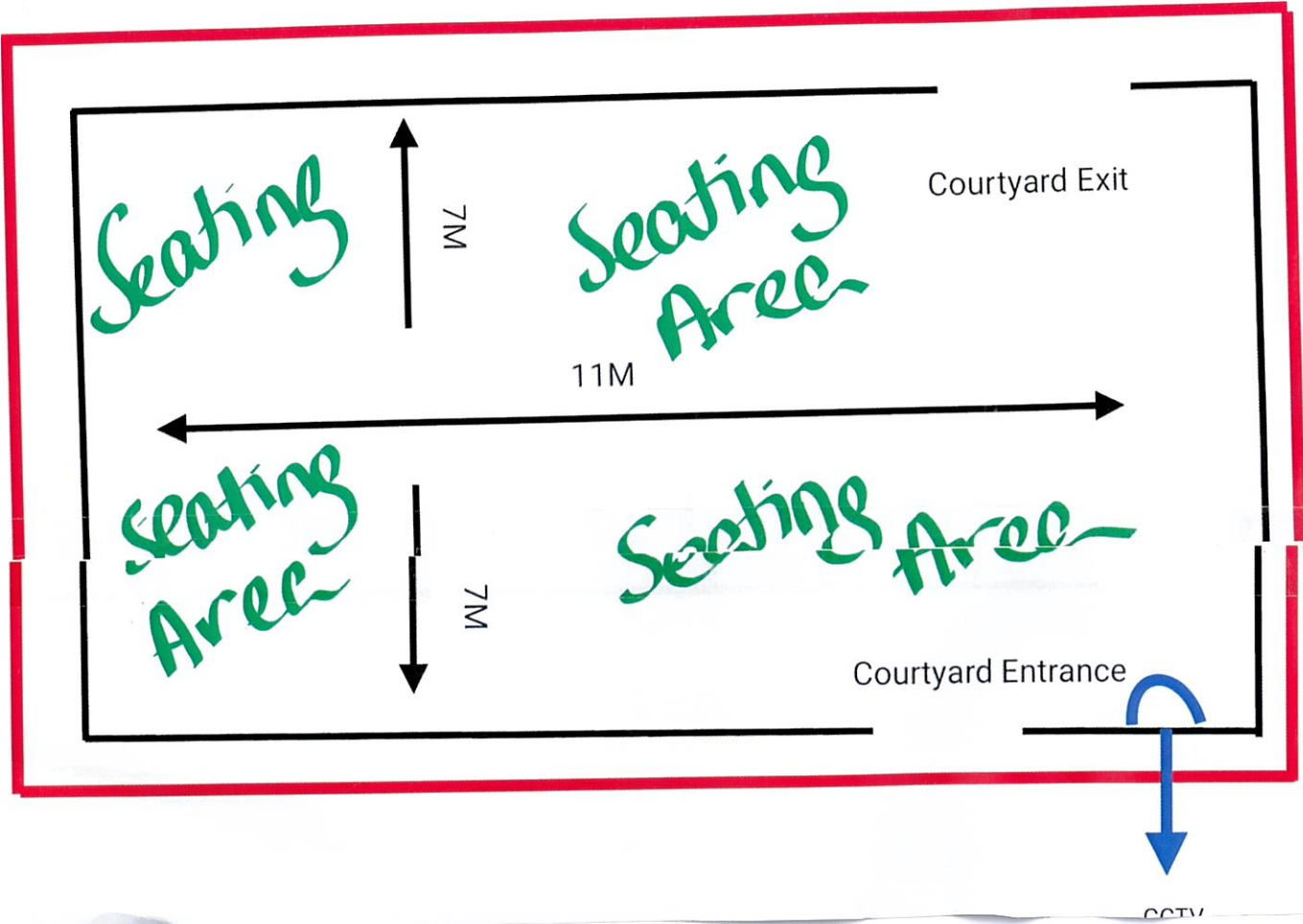
3

Courtyard



4

### Outer Courtyard



## **General**

The Licence Holder shall ensure that all staff are trained as appropriate to promote the four licensing objectives. Records of training will be maintained at the premises and be made available to the Licensing Authorities upon request.

## **The Prevention of Crime and Disorder**

A CCTV system shall be designed, installed and maintained in proper working order. Such system shall be:

- Operated by properly trained staff.
- Be in operation at all times that the premises are being used for a licensable activity
- Ensure suitable coverage of public areas
- Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (On disc, hard drive or other immediate retrievable facility) for a period of 28 days, and shall be supplied to the licensing authority or a police officer on request or within 24 hours of the request.
- The system should be checked and maintained to ensure it is in good working order

## **Public Safety**

The Licence Holder will in the absence of adequate daylight, ensure that suitable and sufficient lighting is provided and maintained at any access or egress point to the licensed premises.

## **The Prevention of Public Nuisance**

The Licence Holder shall ensure that staff monitor the immediate vicinity of the premises and ensure that any litter is collected and disposed of appropriately.

The Licence Holder shall ensure that adequate waste receptacles are available for use by customer within and immediately outside the premises.

The Licence Holder will ensure adequate signage is in place advising customers to leave the premises quietly and orderly

The License holder will ensure that all glasses are cleared from all tables inside and outside as soon as customers leave the premises. If this cannot be actioned for the outside seating area then plastic (ideally ecofriendly) glassware must be used.

## **The Protection of Children from Harm**

The Licence Holder will through the operation of a challenge 25 'proof of age' scheme ensure that anyone who appears to be under 25 and is attempting to buy alcohol or is consuming alcohol on the premises will be asked to provide adequate and accepted proof of age.

A refusals log will be kept in relation to this and made available to Licensing Authorities upon request.

The Licence Holder shall ensure that all staff are trained as appropriate to promote the four licensing objectives.

# Representations

## Representation 1

I write with reference to your application for a minor variation of your license. Environmental Health has been asked to consult on this application.

We have concerns that you wish to have live music including DJ music on site. As we understand you are currently a café where background music only would be more appropriate for the venue.

Should you wish to have live music, you must first produce a noise management plan to be approved by this department. This plan must state how you are going to mitigate and protect nearby residential neighbours from being unreasonably disturbed by loud music. Such mitigation may involve a noise limiter.

As I understand, there are residential premises directly above your premises, which will make it difficult to mitigate, particularly as we currently do not know the level of acoustic insulation between the properties.

I have also been advised that there are planning condition on your premises, preventing live music on site for the purpose of protecting the amenities of nearby residential premises. This will need to be resolved as well.

Due to time constraints for this application, Environmental Health will object to this application at this time.

Kind regards

Mr. Wai Tse  
Environmental Protection Specialist  
Environmental Protection

## Representation 2

I would like to make my objections to the premises licence grant application made by the Nook, 43 Tontine Street, CT20 1JT.

The issue that I have with the above is that it includes weekdays. Especially if they intend to use the area out the back in the summer as it is almost directly underneath me. I have two children aged 4 and 2. They both go to bed at 7:30pm. The noise caused by the loud music, inebriated and sober people alike standing outside talking/shouting will undoubtedly be disruptive to my family.

At present, we already have to contend with the jam jar and old buoy - most noise is caused by the people having loud conversations with little regard for residents. But at least they tend to restrict this from Thursday to Saturday.

Can you confirm whether the Nook intends to sound proof the building in any way? Otherwise the vibrations from the music and bass will be felt in the buildings where people live.

Do they plan to keep the seating area out the front? Because when people congregate, given the acoustics of this road, it can be unbearably loud. During the summer months this will mean that we can't have our windows open if we want to hear our TV or have comfortable conversations.

What do the Nook plan to do with regards to security? At present the jam jar has strict entry rules, CCTV and SIA security when needed. Will that nook being doing any of this? If not, how do they plan to ensure the safety of residents?

Moreover, I do not wish my children to be exposed to the shouting and violence that comes with venues like this.

*(A small amount of text has been redacted for data protection reasons)*

If this licence goes ahead, what can residents do when the noise becomes above an acceptable level? How do you measure and decide what an acceptable level of noise is?

As a further complaint, I would like to remind Folkestone and Hythe council that there are still many residents living on Tontine street. We are usually low income, single parents, immigrants or all of the above. We therefore do not have the means to relocate. So it becomes particularly upsetting when no thought is given to our quality of life when say the quarter house wants to hire a DJ for payers park, when the quarter house hosts a party outside which is enormously loud, when licences are given to venues that allow them to have outside seating until late, or when sandwich shops need to expand their business at the expense of local residents.

I'm sure all the people who attend these venues have a lovely time but for those of us who are trapped in poor quality housing, without the funds to be a part of the noise, watching the world around us become gentrified as we become forgotten and unconsidered is really very galling.

I look forward to your response.

Kind regards,

Stephanie



By virtue of paragraph(s) 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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