

**Public Document Pack
SOUTHEND-ON-SEA BOROUGH COUNCIL**

Licensing Sub-Committee B

Date: Tuesday, 13th July, 2021

Time: 10.00 am

Place: Virtual Meeting via MS Teams

Contact: Tim Row - Principal Democratic Services Officer

Email: committeesection@southend.gov.uk

A G E N D A

- 1 Apologies for Absence**
- 2 Declarations of Interest**
- 3 Fellinis, 34-36 Elm Road, Leigh-on-Sea, Essex SS9 1SN - Application to Vary a Premises Licence (Pages 1 - 40)**

To: The Chair & Members of Licensing Sub Committee B:

Councillor K Mitchell (Chair)

Councillors S Buckley and N Folkard

This page is intentionally left blank

Southend-on-Sea Borough Council

Report of Executive Director
(Neighbourhoods and the Environment)

To

Licensing Sub-Committee B

On

13 July 2021

Agenda
Item No.

3

Report prepared by: Paul Richards

Fellinis 34-36 Elm Road Leigh-on-Sea, Essex SS9 1SN
Application to Vary a Premises Licence

LICENSING ACT 2003

A Part I Public Agenda Item

1. Purpose of Report

This report considers an application by Mr Robert Sutherland of RDS Law, acting on behalf of Rococo (Leigh) Ltd, trading as Fellini's located at 34 – 36 Elm Road, Leigh-on-Sea, Essex SS9 1SN, to vary the Premises Licence.

2. Recommendation

2.1 That the Sub-Committee determines the application.

2.2 Should the Sub-Committee decide to approve the application, the relevant mandatory licence condition must be applied. (This is set out in Appendix 1).

2.3 Appendix 2 sets out conditions drawn from the operation schedule for the Sub-Committee's consideration.

3. Background

3.1 The premises is situated within a parade of commercial premises, on both sides of Elm Road. Some of the commercial premises have Residential premises above.

3.2 An application was served on Southend-on-Sea Licensing Authority on the 9th June 2020, for a new premises licence. The application attracted an objection from Leigh Town Council. On the 8th October 2020, The application was referred to the Licensing Sub-Committee B for a decision.

3.3 Councillor D Cracknell, attended the meeting and gave evidence on behalf of Leigh Town Council. The representation related to concerns of Public Safety and Public Nuisance, which are two of the four Licensing Objectives.

3.4 The Licensing Sub-Committee, granted the Licence and made the decision to prescribe a limit of the number of patrons permitted for the purpose of dining and drinking on the

terrace/balcony. The following Licence Condition was attached to the Premises Licence as Annex 3:-

- 1) The external terrace area shall be limited to a maximum of 16 (sixteen) patrons only, for the purposes of dining and drinking.

4. Proposals

- 4.1 This application is to vary the plans of the premises and increase the maximum capacity on the terrace to 48 persons. Alcohol will be served by waiter/waitress service to persons seated at tables on the terrace. Alcohol to be served with food in this area.
- 4.2 The Licensable activities on the current licence will remain the same as on the existing licence.
- 4.3 This application was submitted to the Licensing Authority on the 2nd April 2021. The consultation period expired on 30th April 2021. The hearing was delayed due to local elections and at the request of the applicant.

5. Application Procedures

- 5.1 Copies of Applications for variation of a Premises Licence are required by law to be sent to all the "Responsible Authorities". The Applicant are also required to display a notice giving brief details of the application in a prescribed form at the application site for the duration of the consultation period, and to publish the same information in a newspaper circulating in the area.
- 5.2 I can confirm that the application process has been conducted in accordance of the Licensing Act 2003.
- 5.3 This Application attracted representations from Three (3) Responsible Authorities, Leigh Council, Environmental Health and Licensing objecting to the Application, which still remains unresolved. There are Two (2) representations from residents in support of the application.
- 5.4 Copies of the representations have been provided to the Sub-Committee Members. In accordance with the legislation, all parties have been invited to attend the hearing.

6. Matters for Consideration

- 6.1 Formal objections having been made and not withdrawn or resolved, the Licensing Authority is obliged to hold a hearing to consider them. Further, having regard to such representations, the Authority is required to take steps (if any) as it considers appropriate for the promotion of the Licensing Objectives.

Thus, the Authority may:

- a) Grant the licence, subject to conditions consistent with the operating schedule (modified as considered appropriate for the promotion of the Licensing Objectives) and subject to relevant mandatory conditions;
 - b) Exclude from the scope of the licence any of the licensable activities to which the application relates;
 - c) Refuse the application.
- 6.2 The Licensing Act 2003 requires that the Licensing Authority must carry out its functions under the Act with a view to promoting the Licensing Objectives. These are:

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

6.3 In carrying out its licensing functions, the Licensing Authority must also have regard to:

- 1. Its Licensing Statement, and
- 2. The guidance issued by the Secretary of State.

6.4 The Licensing Authority has, in accordance with the requirements of the Act, prepared and published a Statement of Licensing Policy, following formal consultation. Copies of this document, together with the statutory guidance, have been made available to all Licensing Committee Members.

7. Existing Licensing Controls

7.1 The current conditions are not sought to be changed except condition 1 applied in Annex 3.

- 1) The external terrace area shall be limited to a maximum of 16 (sixteen) patrons only, for the purposes of dining and drinking

8. Background Papers

8.1 Council's Statement of Licensing Policy.

8.2 Decision Notice of the Licensing Sub-Committee B, held on 8th October 2020

8.3 A copy of the current Licence

9. Appendices

9.1 None.

This page is intentionally left blank

Application for the Variation of a Premises Licence



This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

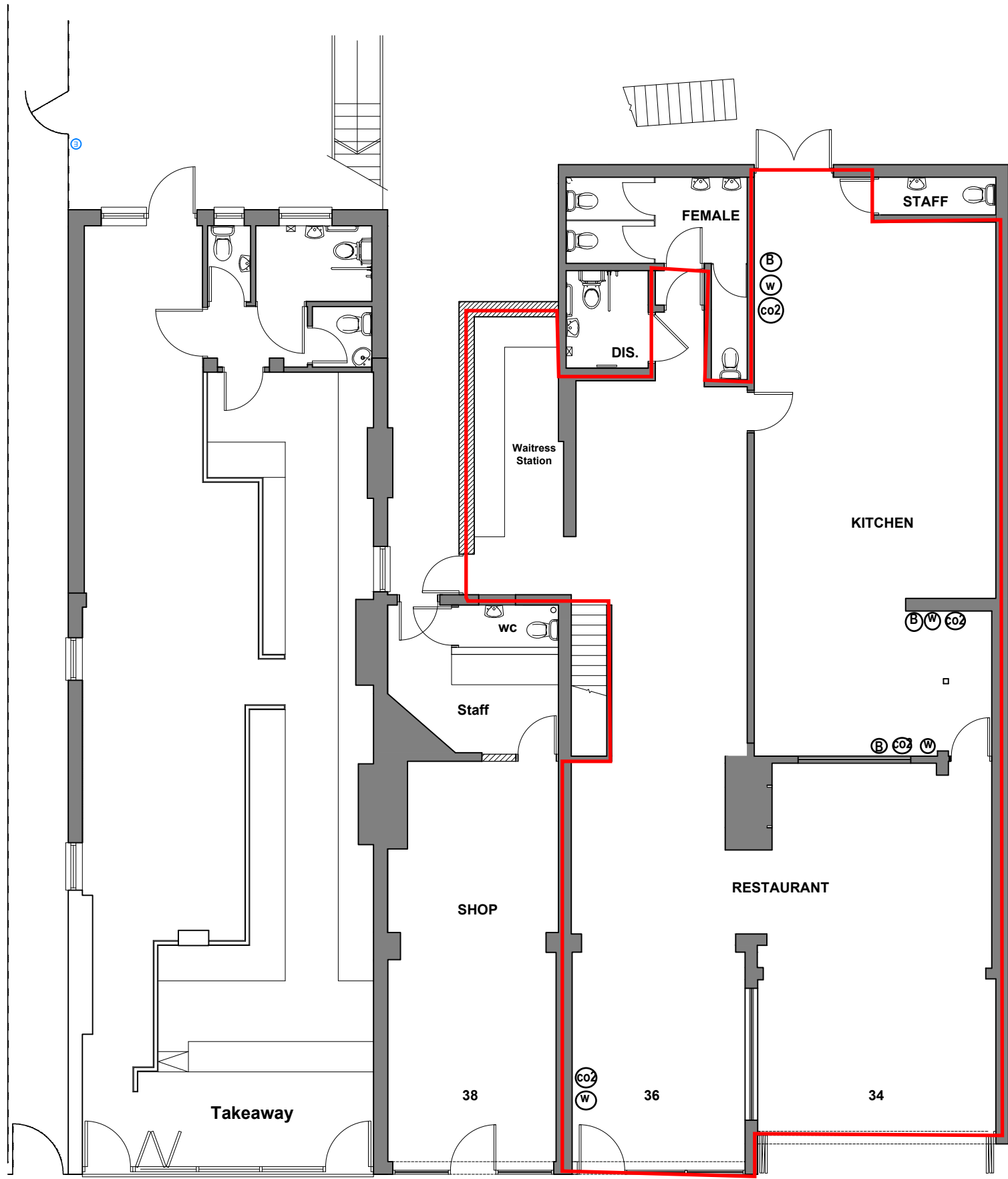
Document is Restricted

This page is intentionally left blank

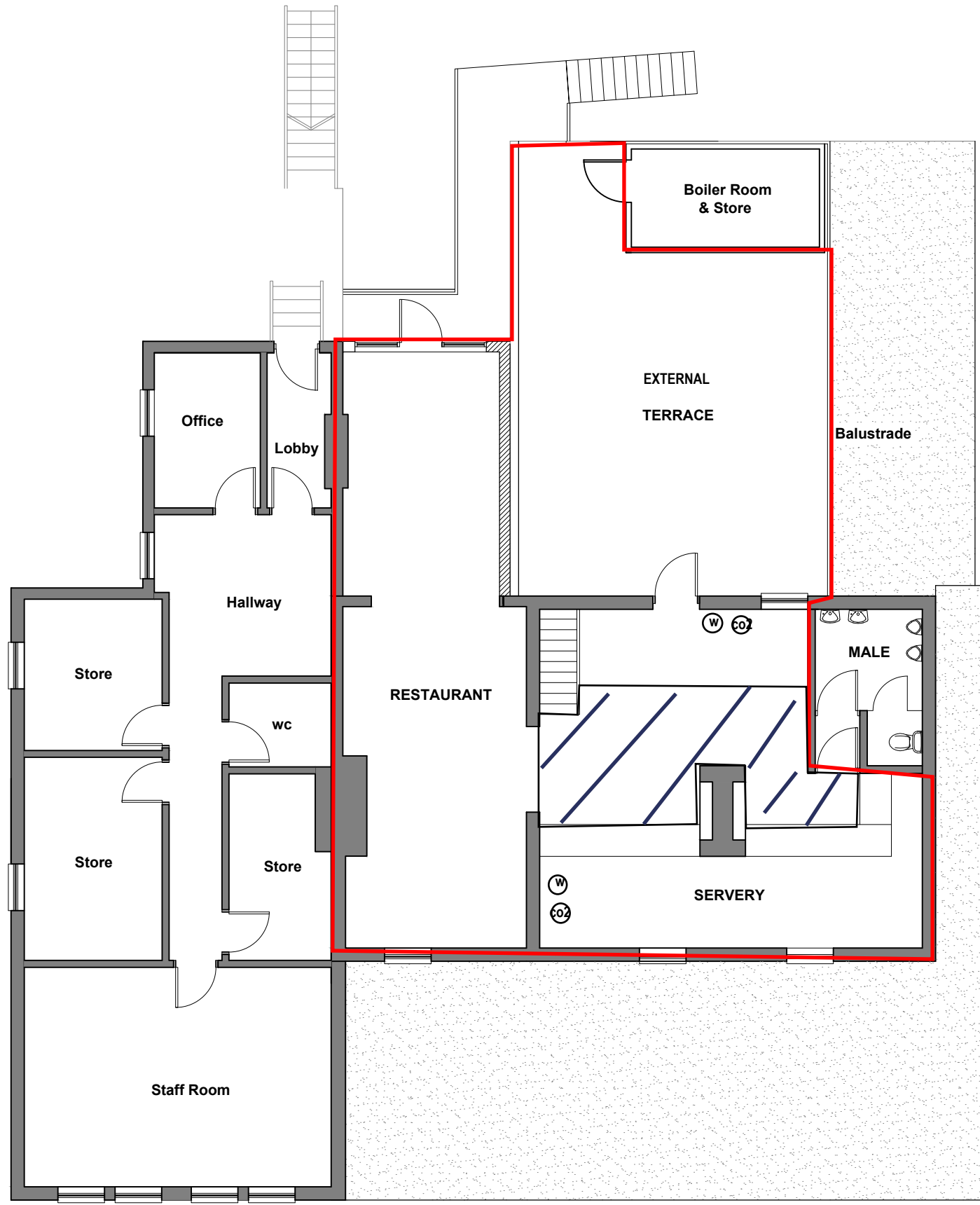
By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

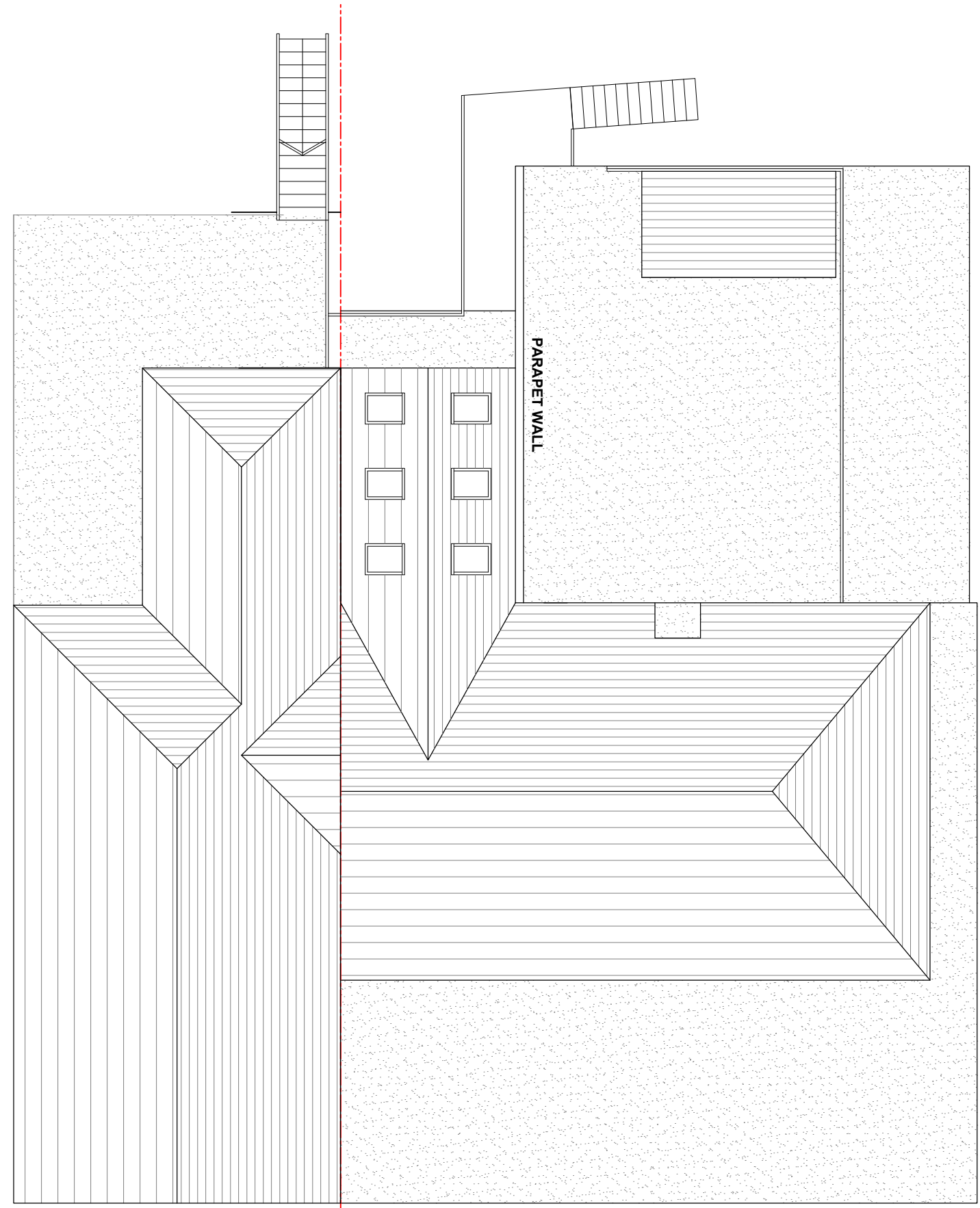
This page is intentionally left blank



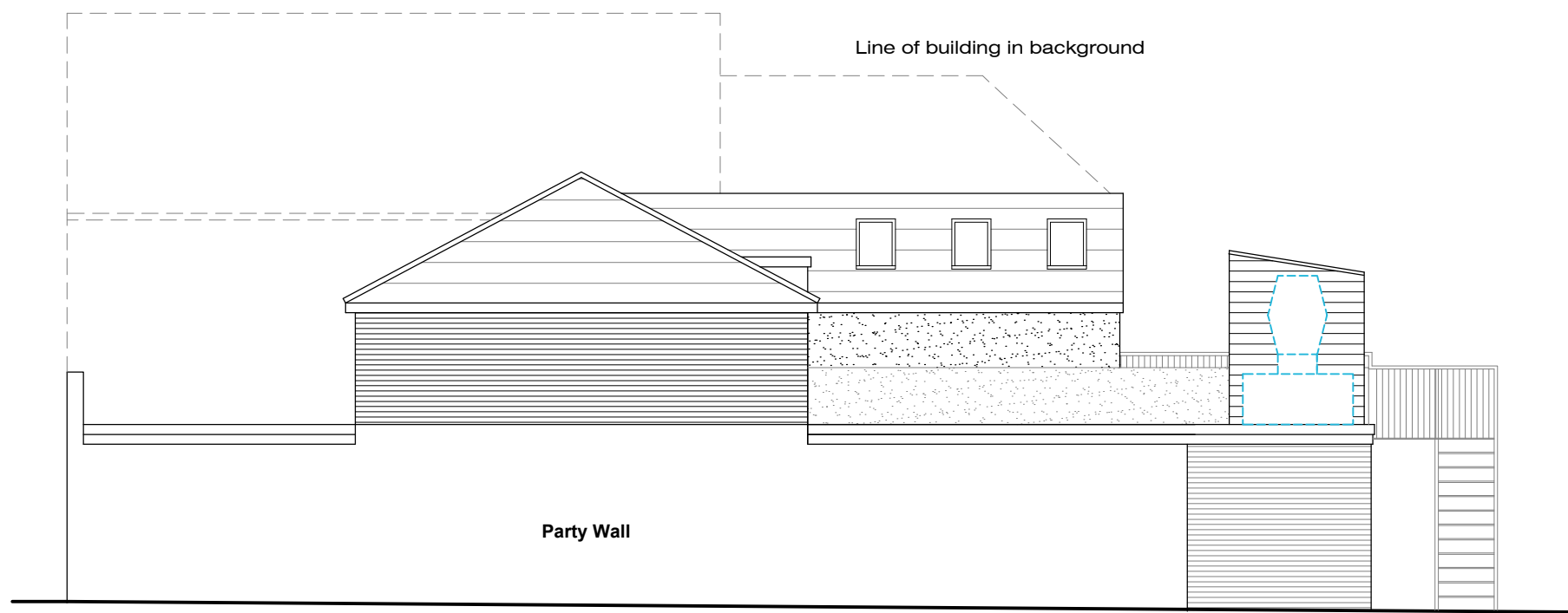
PROPOSED GROUND FLOOR
SCALE 1:100



PROPOSED FIRST FLOOR
SCALE 1:100



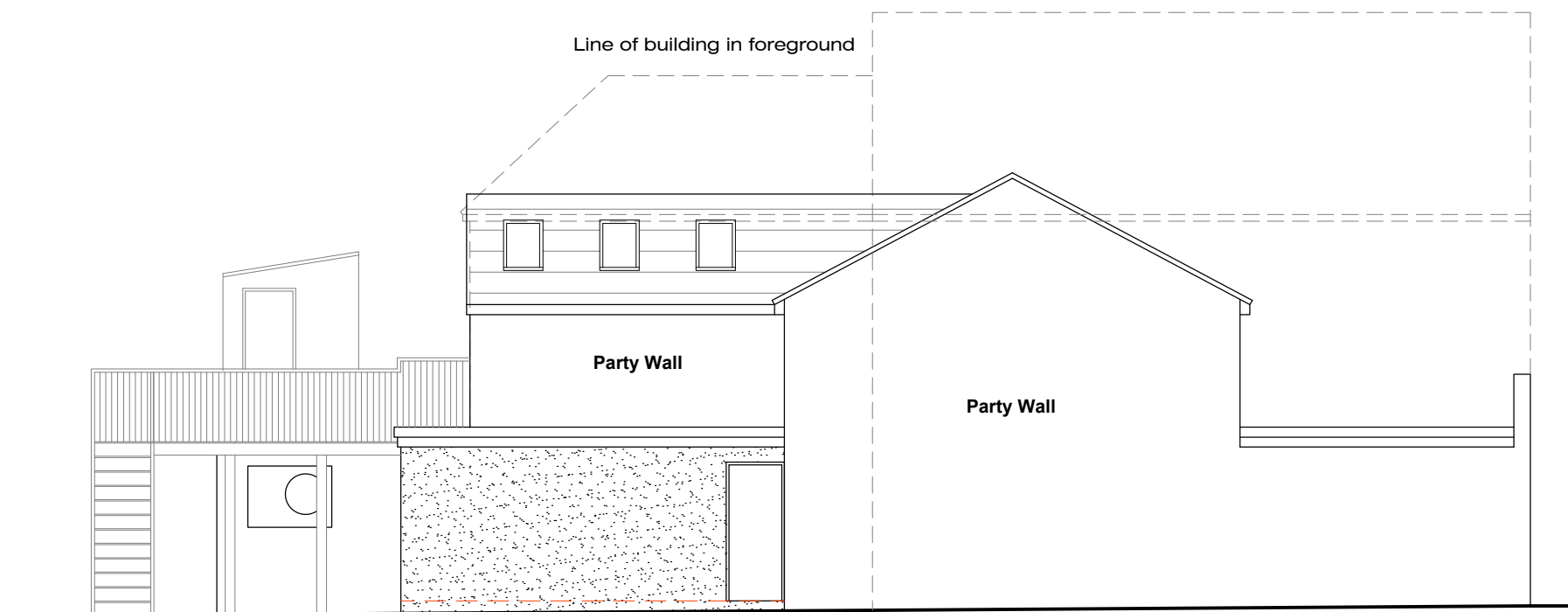
PROPOSED ROOF PLAN
SCALE 1:100



PROPOSED SIDE ELEVATION
SCALE 1:100



PROPOSED REAR ELEVATION
SCALE 1:100



PROPOSED SIDE ELEVATION
SCALE 1:100



PROPOSED FRONT ELEVATION
SCALE 1:100

The contractor is to check and verify all building and site dimensions, levels, and sewer invert levels at connection points before work starts.

This drawing must be read with and checked against any structural or other specialist drawings provided.

Any discrepancies found on this drawing are to be notified to STONE ME! DESIGN LTD prior to commencement of work.

The contractor is to comply in all respects with the current Building Regulations whether or not specifically stated on these drawings.

This drawing is not intended to show details of foundations or ground conditions. Each area of ground relied upon to support the structure depicted must be investigated by the contractor and suitable methods of foundations provided.

This drawing is to be read in conjunction with all other standard STONE ME! DESIGN LTD specifications and documentation.

STONE ME! DESIGN LTD reserves the right to withdraw any drawings from any applications or third parties should disputes arise between the client and STONE ME! DESIGN LTD.

This drawing remains the copyright of STONE ME! DESIGN LTD and cannot be reproduced without prior permission.

- (B) Fire Blanket
- (CO2) Fire extinguisher CO2
- (W) Fire extinguisher water

Licensable activities may take place anywhere within the red line.

Fire fighting equipment is shown as at the date hereof but may be changed in accordance with the fire risk assessment or by agreement with the fire authority

REV: DATE: AMENDMENT:

Stoneme!
architectural & interior design

5 FOUNTAIN LANE, HOCKLEY, ESSEX, SS5 4ST
Tel: 01702 203333
E: info@stoneme.com W: www.stoneme.com

Client:

Project: **FELLINI
LEIGH ON SEA
SS9 1SN**

Drawing: **PROPOSED PLANS**

Issue: Client Pre-App Planning B.Cont As Built Other

Date: **4TH JUNE 2020**

Scale: **1:100 @ A1**

Project No.: **1728**

Drawing No.: **34**

Licensing

1:100 0m 1 2 3 4 10.0m

38 ELM ROAD, LEIGH ON SEA, SS9 1SN

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

DECISION NOTICE
Licensing Sub-Committee B
Held: Thursday, 8th October 2020
34-36 Elm Road, Leigh-on-Sea, SS9 1SN
Application for Grant of Premises Licence
(This meeting was held virtually using the MS Teams platform)

The sub-committee has before it an application by Rococo (Leigh) Ltd for the grant of a Premises Licence at Fellini, 34-36 Elm Road, Leigh-on-Sea, SS9 1SN.

We have listened to all the evidence and submissions and have read all the documents.

We have had regard to the Statutory Guidance Notes and Southend-on-Sea Borough Council's Statement of Licensing Policy. We have considered the four licensing objectives namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

Each contested application is decided on its merits.

The application was presented by Mr R Sutherland (Applicant's Agent) on behalf of the applicant. The applicant and owner of the premises, Mr M Hassan, was also in attendance.

The sub-committee noted that no letters of objection to this application had been received from any of the Responsible Authorities, however, measures had been agreed between Essex Police, the Licensing Authority and the Applicant, should the application be granted. These were included in Appendix 2 to the report of the Executive Director (Neighbourhoods and Environment). One letter of representation had however, been received from Leigh Town Council. Councillor D Cracknell attended the meeting and gave evidence on behalf of Leigh Town Council.

The objections/representations related to concerns of public safety and public nuisance, particularly the increase in the number of patrons permitted at the premises resulting in overcrowding, noise of patrons attending and leaving the premises, notably when the doors at the premises were open and the disturbance caused by customers using the external areas, which would be detrimental to residents living in close proximity to the premises.

Prior to the hearing, the applicant's agent submitted some additional information to support the application. This comprised a report and findings from a noise impact assessment of patrons using the outside terrace dining area that had been produced by Richard Vivien, Principal Consultant at Big Sky Acoustic Ltd., together with letters from two taxi companies regarding the provision of pre-booking and priority venue services to and from the premises.

During the hearing, the applicant's agent explained that he had experienced difficulties in completing the online application form during the lockdown period. He had been unable to complete the form correctly when entering times after mid-night and that in some instances he had been unable to enter

numerical information so had had therefore only been able to enter the information in text. He explained that the information set out in the original application and report of the Executive Director (Neighbourhoods and Environment) may therefore be inaccurate. He confirmed that the applicant was not seeking any changes to the currently permitted hours for the opening of the premises nor the permitted hours for licensable activities for the premises, in this application. In the event that the application is granted, the applicant's agent confirmed that the current licence would be surrendered.

The applicant's agent also offered an additional condition, limiting the number of persons in the external terrace area to a maximum of 16 people at any one time, for the purposes of dining and drinking only, which may assist in addressing the concerns of the objector. Additionally, the applicant's agent agreed to remove condition 3 on Appendix 2 to the report of the Executive Director (Neighbourhoods and Environment) regarding the number of special days when tables and chairs could be removed for pre-booked events.

Whilst the sub-committee acknowledged the concerns expressed by the objector, it noted that there had been no incidents or complaints regarding the current operation of the premises nor had there been any representations received to the application from any neighbouring residents.

On the basis of the evidence presented to it, the sub-committee did not consider that the promotion of the licensing objectives would be undermined by the granting of the application, subject to the conditions it could apply to the licence. The application is therefore granted subject to the following:

- (i) The permitted hours for opening and licensable activities being as follows:
 - (a) To provide the sale of alcohol on and off the premises on Mondays to Wednesdays from 09:00 to 23:30, Thursdays 09:00 until 00:00, Fridays and Saturdays 09:00 until 01:00 and Sundays 09:00 until 23:30. On New Year's Eve from 09:00 until the start of permitted hours the following day;
 - (b) To provide provision of Films, Recorded Music and Late-Night Refreshment on Mondays to Wednesdays from 23:00 to 23:30, Thursdays from 23:00 until 00:00, Fridays and Saturdays from 23:00 until 01:00 and Sundays 23:00 until 23:30. On New Year's Eve from 09:00 until the start of permitted hours the following day;
 - (c) The Provision of Live Music daily from 09:00 until 23:00. On New Year's Eve from 09:00 until the start of permitted hours the following day; and
 - (d) Hours of opening for the premises are Mondays to Wednesdays from 09:00 until 00:00, Thursdays 09:00 until 00:00, Fridays and Sunday 09:00 until 01:30 and Sundays 09:00 to 00:00. On New Year's Eve from 09:00 until the start of permitted hours the following day.
- (ii) The Mandatory Conditions set out in Appendix 1 to the amended report of the Executive Director (Neighbourhoods and Environment);

(iii) The conditions drawn from the Operating Schedule, together with the conditions agreed between the Essex Police, the Licensing Authority and the Applicant as set out in Appendix 2 to the amended report of the Executive Director (Neighbourhoods and Environment), subject to the removal of Condition 3 limiting the number of special days when tables and chairs could be removed for pre-booked events; and

(iv) The following additional condition:

“The external terrace area shall be limited to a maximum of 16 (sixteen) patrons only for the purposes of dining and drinking only”

This page is intentionally left blank