





Brighton & Hove
City Council

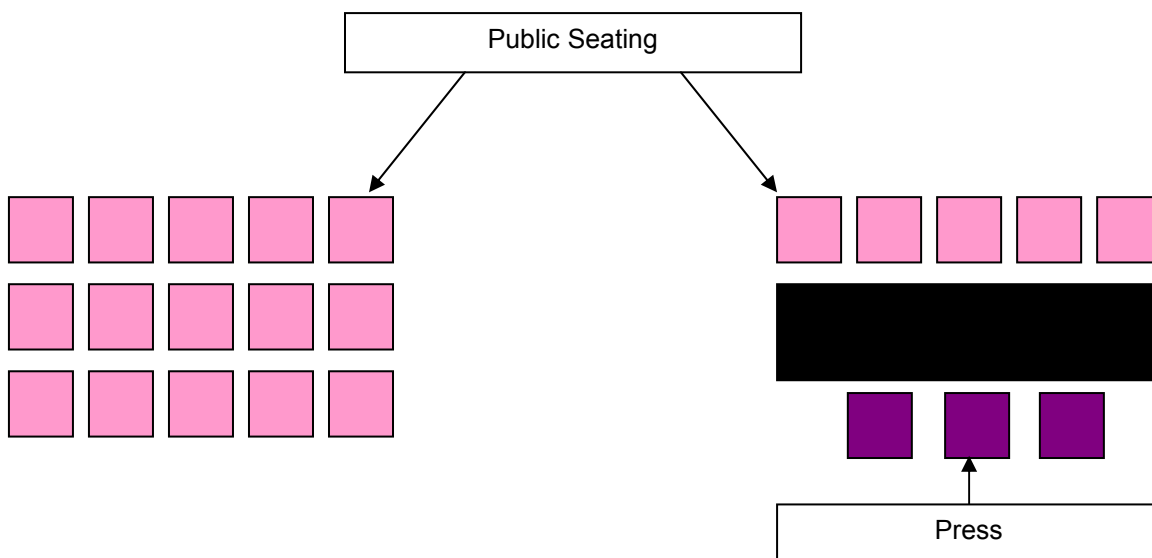
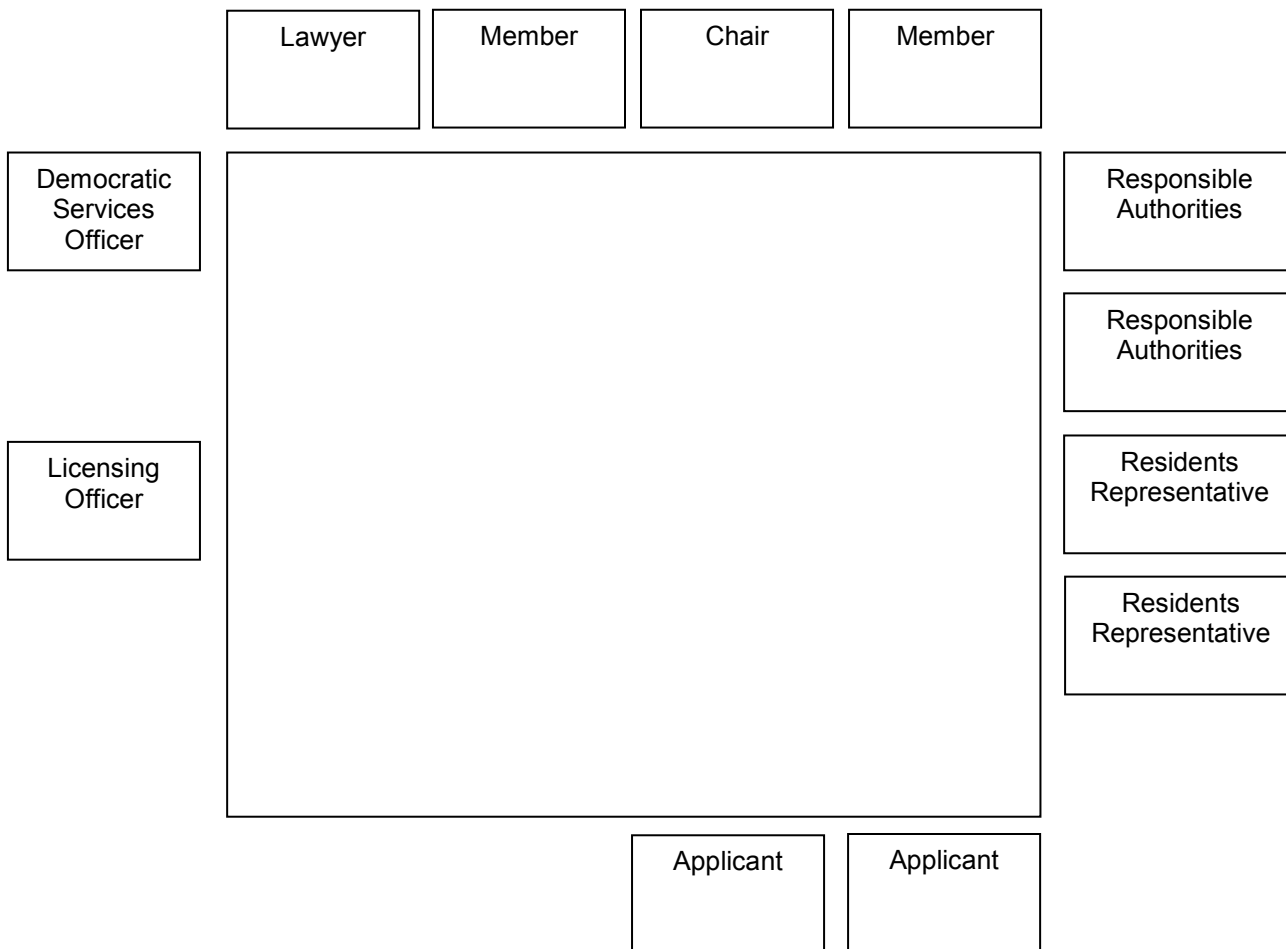
Licensing Panel

(Licensing Act 2003 Functions)

Title:	Licensing Panel (Licensing Act 2003 Functions)
Date:	28 April 2011
Time:	10.00am
Venue	Committee Room 1, Hove Town Hall
Members:	Councillors: Harmer-Strange, Older and Simson
Contact:	Penny Jennings Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

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Democratic Services: Meeting Layout



AGENDA

141. TO APPOINT A CHAIRMAN FOR THE MEETING

142. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the main Licensing Committee may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading either that it is confidential or the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the categories of exempt information is available for public inspection at Brighton and Hove Town Halls.

143. APPLICATION FOR VARIATION OF A PREMISES LICENCE : THE BLACK HORSE, 65 HIGH STREET, ROTTINGDEAN

1 - 26

Report of the Head of Environmental Health and Licensing (copy attached)

Contact Officer: Mark Savage-Brookes Tel: 01273 292100
Ward Affected: Rottingdean Coastal

NOTE: *There may be more than one item on this agenda, and as such the item you are interested in may not be heard until later in the day. However, the Chairman reserves the right to alter the running order of the agenda at the start of the meeting without prior notice.*

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public.

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065), email penny.jennings@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Monday, 18 April 2011

**Licensing Panel
(Licensing Act 2003 Functions)**

Agenda Item 143
Brighton & Hove City Council

Subject: Application for a Variation of a Premises Licence under the Licensing Act 2003
Premises: Black Horse, 65 High Street, Rottingdean, BN2 7HE
Applicant: Greene King Retailing Limited
Date of Meeting: 28 April 2011
Report of: Head of Environmental Health and Licensing
Contact Officer: Name: **Mark Savage-Brookes** Tel: **01273 292100**
E-mail: **Mark.Savage-Brookes@brighton-hove.gov.uk**
Wards Affected: Rottingdean Coastal

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

1.1 To determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for the Black Horse.

2. RECOMMENDATIONS:

2.1 To determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for the Black Horse.

2.2.1 The application is for:

A Variation of an already granted Premises Licence under the Licensing Act 2003.

The application proposes:

To attach amended licensing plan to include the external male toilets being replaced by a smoking shelter.

2.2.2 Part P of the application is detailed at Appendix A and the proposed plan of the premises is attached at Appendix B.

2.3 Summary table of existing and proposed activities

	Existing	Proposed
E Live music	Indoors Monday – Friday 19.00 – 23.00 Saturday – Sunday 12.00 – 23.00	As Existing
F Recorded Music	Indoors Monday – Friday 19.00 – 23.00 Saturday – Sunday 12.00 – 23.00	As Existing
M Supply of Alcohol	On and Off the Premises Sunday - Thursday 10.00 - 23.30 Friday – Saturday 10.00 - 00.30	As Existing
O Hours premises are open to public	Sunday - Thursday 10.00 – 00.30 Friday – Saturday 10.00 - 01.30	As Existing

2.4 Existing licence attached at Appendix C

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 The premises does not fall in the Cumulative Impact Area or the Special Stress Areas.

3.2.1 Representations received

Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. A summary appears below:

3.2.2 One representation was received. It was received from The Environmental Protection Team

3.2.3 Representations received had concerns relating to Prevention of Public Nuisance.

3.2.5 The full detail of the representation is attached at Appendix D. A map detailing the location of the premises is attached at Appendix E.

4. CONSULTATION

Commentary on licensing policy

4.1 The following extracts from Brighton & Hove City Council Statement of Licensing Policy are considered relevant to this application and numbered as they appear in the policy:

General

1.2 The licensing objectives are:-

- (a) Prevention of crime and disorder;
- (b) Public safety;
- (c) Prevention of public nuisance;
- (d) Protection of children from harm.

1.3 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity.

1.5 Each application will be given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any

such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act

- 1.10.4 The licensing authority's preferred position is to ensure planning permission is in place before an application for a licence is made.

In respect of the prevention of public nuisance

- 4.1 Planning, building control and licensing will be properly separated to avoid duplication and inefficiency. Granting of licences will not relieve applicants of the need to apply for planning permission or building control consent and there is an expectation that these issues will have been explored before licensing applications are submitted. Applicants are recommended to obtain correct planning consents prior to applying for a licence to avoid potentially inoperative licences.
- 4.2 In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, as a result of people entering or leaving the premises or from individuals or groups of customers gathered outside (e.g. in order to smoke)
- 4.7 Regard will be had to any history or likelihood of nuisance. Generally, favourable consideration will be given to applications for later hours in the city centre, on busy main roads and in the central leisure area. Powers may be exercised to impose conditions as to hours of opening in order to avoid unreasonable disturbance to residents of the neighbourhood. Licensed premises in residential neighbourhoods will normally have a terminal hour no later than 2330. In mixed neighbourhoods they will normally have a terminal hour of no later than 0200 hours to counter noise disturbance to residents as informed by the health impact assessment and requested by Licensing Strategy Group.
- 4.9 Reasonable controls are available to all premises operators to minimise the impact of noise from customers outside. The council's Environmental Health Department has issued guidance on a number of steps that can be taken in this respect which are endorsed by this policy (see 4.10 below).

4.10 Smoking Advice

Premises licence holders will be expected to:

- Develop a management plan on how to manage smoking on your premises and ensure that all staff are aware of the contents of this plan, and that it is effectively implemented. Noise from people smoking and talking can be intermittent, vary in character and volume and be intrusive. An effective smoking management plan will help prevent neighbours being disturbed.
- Comply with any planning conditions restricting the use of outdoor areas.
- Ensure that any structures used by smokers comply with the design criteria detailed in the Heath Act 2006 and that any structures, awnings, retractable canopies, etc have the relevant planning permission.
- Ensure any new lighting to outdoor areas must be designed so as not to cause a light nuisance to neighbours and again have the relevant planning permission and building control consent.
- Ensure that the conditions on the premises licence are complied with. There may be conditions restricting the hours of use of gardens and outdoor areas. Having reviewed the contents of the premises licence you may find it necessary to request a variation of your licence.
- Licence tables and chairs on the Public Highway under the provisions of the Highways Act 1980. These licences may have conditions restricting the times that the area can be used.
- Ensure drinks, glasses and bottles are not taken onto the highway unless there is a tables and chairs licence permitting use. A system should be adopted to prevent theft and 'spiking' of drinks, and reminding customers not to leave unattended items.
- Discourage smokers remaining in gardens and outdoor areas and determine terminal hours.
- Discourage smokers remaining outside by removing/disabling tables and chairs or prohibiting their use after a certain time. Lights and heaters will also be turned off.
- Introduce a system that after a certain time the number of smokers outside are restricted to a maximum number. Staff will be needed to manage this restriction.
- Employ staff and/or SIA registered door supervisors to manage doors and control customers and smokers entering and leaving the premises. Staff positioned on the doors can help to encourage customers not to cause a noise problem. It may be that staff are required to manage doors after a certain time, particularly during the hours when neighbouring residents are trying to sleep.
- Ensure door supervisors maintain order outside venues and protect customer safety. BCRP supports the use of Night Safe. Radio net and other pager systems and pub watch schemes can be used to provide for rapid police response and alert other venues where customers and staff are endangered.

- Position signs to remind customers that the premises is in an area where people live. It is not always obvious in busy commercial streets with flats above. By changing the design and wording of signs customers do not forget. Signs can be located in and outside the premises and on tables.
- Use CCTV to manage outside areas.

4.11 Licensed premises should normally display prominent, legible signs at exits reminding customers to leave in a quiet, peaceful, orderly manner.

Strategic Integration

6.8 Other regulatory regimes

This policy avoids duplication with other regulatory regimes wherever possible.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

The licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime.

Finance Officer Consulted: Karen Brookshaw Date: 07.04.2011

5.2 Legal Implications:

The licensing authority must act to promote the four licensing objectives which are:

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

The licensing authority must have regard to its statement of licensing policy and the guidance issued by the Secretary of State in carrying out its functions.

Lawyer Consulted: Rebecca Sidell Date: 07.04.2011

5.3 Equalities Implications:

Diversity is valued and strong, safe communities are vital to future prosperity. Licensing policy aims to protect children from harm including sale and supply of alcohol to children.

5.4 Sustainability Implications:

Licensing policy aims to prevent public nuisance and develop culture of live music, dancing and theatre.

5.5 Crime & Disorder Implications:

Licensing policy aims to prevent crime and disorder and protect public safety.

5.6 Risk and Opportunity Management Implications:

Licensing is a crucial business and employment opportunity and unnecessary regulation might lead to legal challenge.

5.7 Corporate / Citywide Implications:

The success of the city's tourism strategy requires a safe, attractive city centre to improve competitiveness. The Act may significantly change night time economy

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A – Part P of the Application
2. Appendix B – Proposed Plan of the Premises
3. Appendix C – Part A of Premises Licence
4. Appendix D – Representations
5. Appendix E – Map of area

Documents in Members' Rooms

1. Environmental Health & Licensing Service, Brighton & Hove City Council (2008): The Licensing Act 2003 – Brighton & Hove City Council: Statement of Licensing Policy

Background Documents

1. Environmental Health & Licensing Service, Brighton & Hove City Council (2008): The Licensing Act 2003 – Brighton & Hove City Council Statement on Licensing Policy.

APPENDIX A

P Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

The premises will promote the licensing objectives in accordance with the Section 182 Guidance. The premises will operate in accordance with all relevant legislation.

b) The prevention of crime and disorder

The crime and disorder objective has been considered in light of the proposed variation. The proposed variation will not have an adverse effect on the crime and disorder objective. The premises will promote the crime and disorder objective in accordance with the Section 182 Guidance. The premises will operate in accordance with all relevant legislation which promotes the crime and disorder objective.

c) Public safety

The public safety objective has been considered in light of the proposed variation. The proposed variation will not have an adverse effect on the public safety objective. The premises will promote the public safety objective in accordance with the Section 182 Guidance. The premises will operate in accordance with all relevant legislation which promotes the public safety objective.

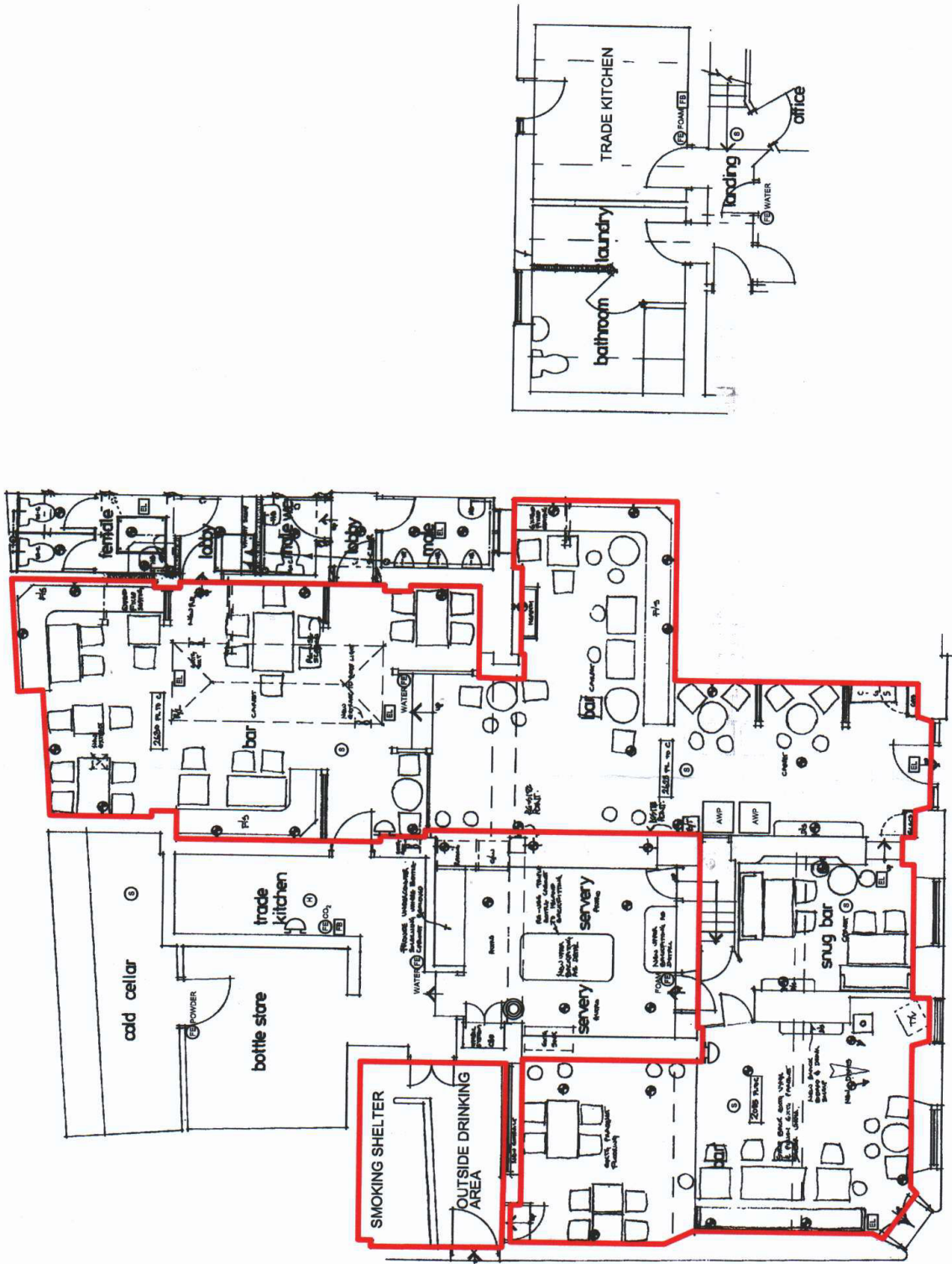
d) The prevention of public nuisance

The public nuisance objective has been considered in light of the proposed variation. The proposed variation will not have an adverse effect on the public nuisance objective. The premises will promote the public nuisance objective in accordance with the Section 182 Guidance. The premises will operate in accordance with all relevant legislation which promotes the public nuisance objective.

e) The protection of children from harm

The protection of children objective has been considered in light of the proposed variation. The proposed variation will not have an adverse effect on the protection of children objective. The premises will promote the protection of children objective in accordance with the Section 182 Guidance. The premises will operate in accordance with all relevant legislation which promotes the protection of children objective.

APPENDIX B



Schedule 12

Part A

Premises Licence
Brighton and Hove City Council

Premises Licence Number

1445/3/2005/03858/LAPREV

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Black Horse
65 High Street
Rottingdean
Brighton
East Sussex, BN2 7HE

Telephone number 01273 302581

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

Performance of Live Music
Performance of Recorded Music
Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities:-

Performance of Live Music, Indoors (Small bands DJ's or occasional karaoke usually weekly and normally at a weekend, nights of the week to vary) and **Performance of Recorded Music**, Indoors (Occasional discos to replace live music)

Monday - Friday: 19.00 - 23.00 and Saturday - Sunday: 12.00 - 23.00.

Xmas Eve, Xmas Day, Boxing Day, New Years Eve and Day, Spring and August Bank Holiday, Good Friday, Easter Saturday, Sunday and Monday and any other bank holidays plus one extra hour to standard timings for that given day. Occasional parties and St Patricks day, one hour extra to standard timings for that given day.

Sale by Retail of Alcohol

Sunday - Thursday: 10.00 - 23.30 and Friday - Saturday: 10.00 - 00.30.

Xmas Eve, Xmas Day, Boxing Day, New Years Day, Spring and August Bank Holidays, Good Friday, Easter Saturday, Sunday and Monday and any other bank holidays plus one extra hour to standard timings for that given day.

The opening hours of the premises

Sunday - Thursday: 10.00 - 00.30 and Friday - Saturday: 10.00 - 01.30. Xmas Eve, Xmas Day, Boxing Day, New Years Day, Spring and August Bank Holidays, Good Friday, Easter Saturday, Sunday and Monday and any other bank holidays plus one extra hour to standard timings for that given day.

Where the licence authorises supplies of alcohol whether these are on and / or off supplies
Alcohol is supplied for consumption both on and off the Premises.

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Greene King Retailing Limited
Abbott House
Bury St Edmunds
Suffolk
IP33 1QT

Registered number of holder, for example company number, charity number (where applicable)

Registered Business Number 5265451

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Party reference:

Licensing Authority:

Annex 1 – Mandatory conditions

S 19; mandatory conditions where licence authorises supply of alcohol

- no supply of alcohol may be made under the premises licence (a) at a time when there is no designated premises supervisor in respect of the premises, or (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
- every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

1.—(1) The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

(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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(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;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on–

- (i) the outcome of a race, competition or other event or process, or
- (ii) the likelihood of anything occurring or not occurring;

(e) 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.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

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

Mandatory Conditions 4 & 5 come into effect from 1st October 2010:

4.—(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) 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 a holographic mark.

5. The responsible person shall 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–

- (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; and
- (b) customers are made aware of the availability of these measures.

Embedded Conditions:

Alcohol may be sold or supplied from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

All restrictions removed.

Variations to Embedded Conditions:

Annex 2 – Conditions consistent with the Operating Schedule

For the prevention of crime and disorder:

A proof of age scheme will be used on music nights requiring suitable photographic evidence of age to be shown where appropriate.

The premises will be a member of a Pubwatch scheme if one exists.

For public safety:

Toughened glass drinking vessels will be used throughout the premises, and plastic glasses for outside areas.

For the prevention of public nuisance:

Staff will carry out regular visits to all parts of the premises including the exterior to ensure no nuisance is being caused.

For the protection of children from harm:

Children will be allowed on the premises only between 10.00 and 20.00 except in the restaurant where they will be allowed until 23.00.

Children must be accompanied by adults in the restaurant.

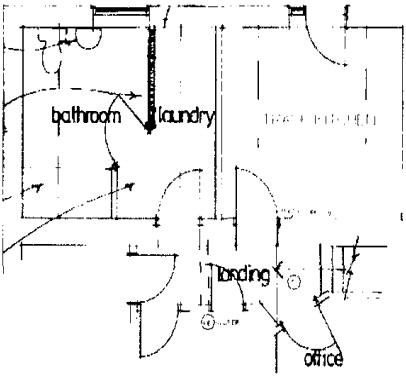
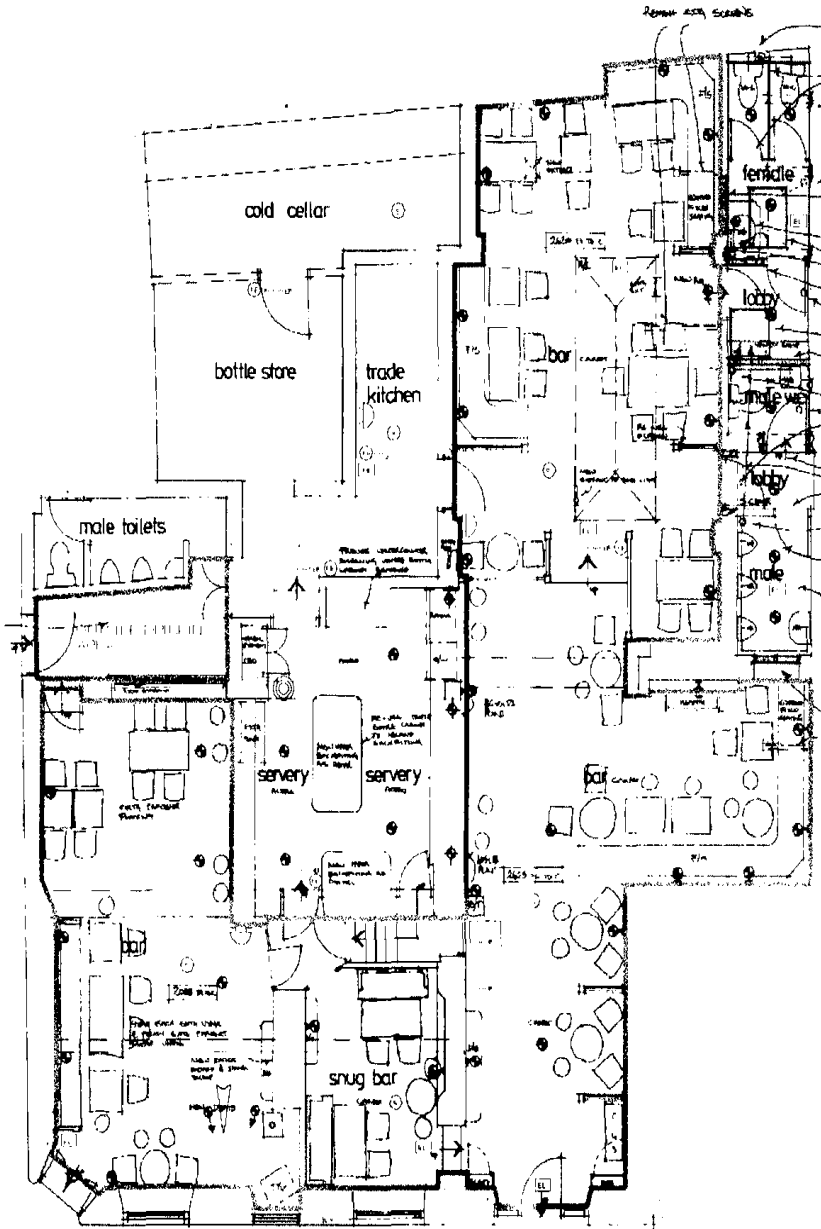
No children will be allowed in the bars when entertainment is taking place.

A proof of age scheme will be used requiring suitable photographic evidence of age to be shown where appropriate.

Annex 3 – Conditions attached after a hearing by the licensing authority

N/A

Annex 4 – Plans



APPENDIX D



Development, Planning & Public Protection
Bartholomew House
Bartholomew Square
Brighton BN1 1JP

2011/00403/LAPREV

(A)

VALID MSS.
PN

Mark Savage-Brookes
Licensing Team
Bartholomew House
Bartholomew Square
Brighton.
BN1 1JP

Date: 14th March 2011
Our Ref: 2011/02766/EPLIC/EH
Phone: (01273) 292373
Fax: (01273) 292196
e-mail: Greg.Minns@brighton-hove.gov.uk

Dear Mark

Licensing Act 2003
Black Horse, 65 High Street, Rottingdean, Brighton, BN2 7HE.

I refer to the application for a variation to the premises licence for The Black Horse, 65 High Street, Rottingdean, Brighton, BN2 7HE. This is to: 'include the external male toilets being replaced by a smoking shelter'.

I am concerned about the potential for public nuisance that will be caused to neighbouring residents by noise from smokers. This concern has not been satisfactorily addressed in the application so I am making a representation.

If information is provided about how the prevention of a public nuisance from this activity will be prevented, I will happily reconsider this representation.

Although the planning and licensing regimes are separate I have copied the planning team in below. This is due to a condition that has been applied to the planning permission for the shelter (BH2008/03443). This condition is as follows:

- 1) The smoking shelter/area shall not be used between 22.00 and 10.00 the following morning.

Yours sincerely,

Greg Minns
Environmental Health Officer
Environmental Protection Team

cc.

BRIGHTON & HOVE CITY COUNCIL
ENVIRONMENTAL HEALTH & LICENSING
DATE RECEIVED
15 MAR 2011

Telephone: 01273 290000
www.brighton-hove.gov.uk
Printed on recycled, chlorine-free paper

APPENDIX E

