





**Brighton & Hove
City Council**

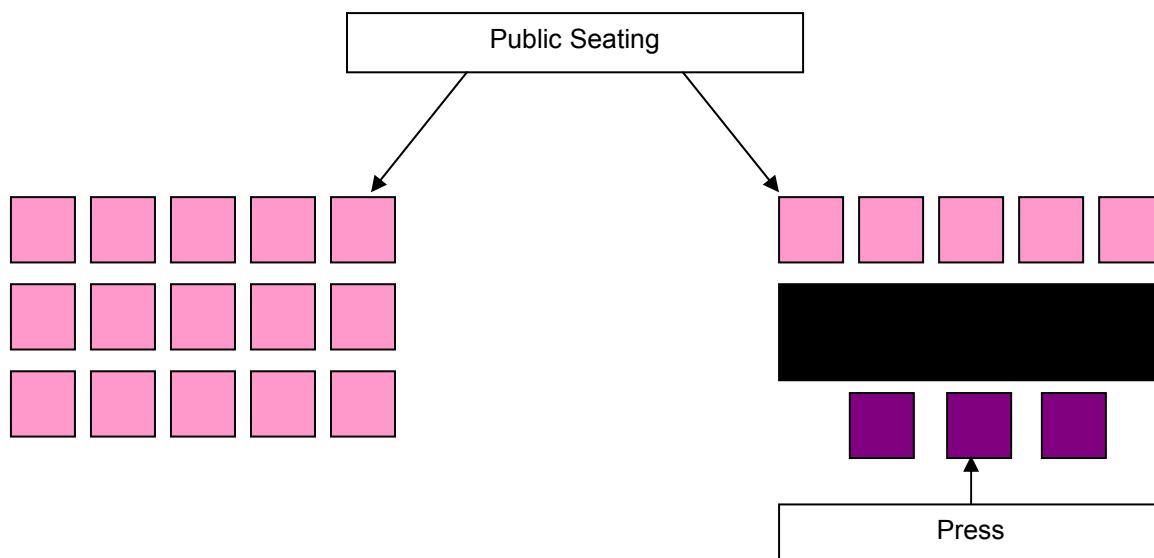
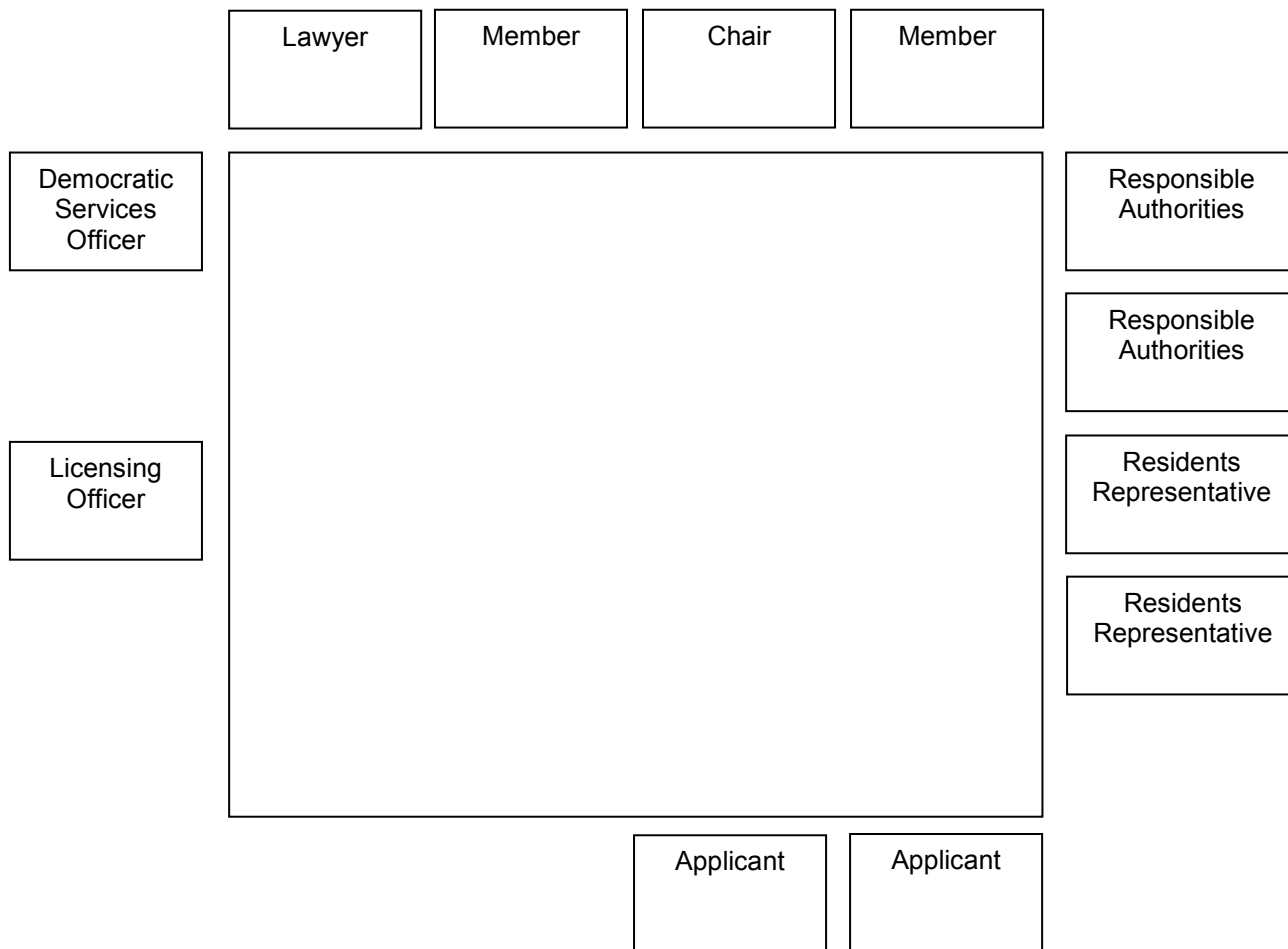
Licensing Panel

(Licensing Act 2003 Functions)

Title:	Licensing Panel (Licensing Act 2003 Functions)
Date:	16 November 2011
Time:	10.00am
Venue	Committee Room 1, Brighton Town Hall
Members:	Councillors: Deane, Cobb and Gilbey
Contact:	Penny Jennings Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

	The Town Hall has facilities for wheelchair users, including lifts and toilets
	An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter and infra red hearing aids are available for use during the meeting. If you require any further information or assistance, please contact the receptionist on arrival.
	FIRE / EMERGENCY EVACUATION PROCEDURE If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by council staff. It is vital that you follow their instructions: <ul style="list-style-type: none">• You should proceed calmly; do not run and do not use the lifts;• Do not stop to collect personal belongings;• Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and• Do not re-enter the building until told that it is safe to do so.

Democratic Services: Meeting Layout



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 - Tuesday, 8 November 2011

LICENSING PANEL

(Licensing Act 2003 Functions)

Agenda Item 79

Brighton & Hove City Council

Subject:	Application for a New Premises Licence under the Licensing Act 2003		
Premises:	Whisky Shop, 64 East Street, Brighton, BN1 1HQ		
Applicant:	GlenKeir Whiskies Ltd		
Date of Meeting:	16 November 2011		
Report of:	Head of Environmental Health & Licensing		
Contact Officer:	Name:	Sarah Cornell	Tel: 295801
	Email:	Sarah.Cornell@brighton-hove.gov.uk	
Ward(s) affected:	Regency		

FOR GENERAL RELEASE

1. PURPOSE OF THE REPORT:

- 1.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for the Whisky Shop.

2. SUMMARY OF THE APPLICATION PROCESS:

- 2.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for the Whisky Shop.

- 2.2 The application is for:

A New Premises Licence under the Licensing Act 2003.

The application proposes:

The applicant is the largest specialist retailer of whiskies in the UK and has 15 years experience in operating whisky shops. The application is for an off-licence and the proposed shop is located in the centre of Brighton and will cater to an upmarket clientele, selling high-class whiskies and a range of related liqueurs. Due to the specialist nature of the business and value of the products sold, the Whisky Shop does not attract "binge drinkers"

- 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 proposed activities:

	Proposed
M Supply of Alcohol	Off the Premises Every Day 08.00 – 23.00

O Hours premises are open to public	Every Day 08.00 – 23.00
--	----------------------------

3. REPRESENTATIONS RECEIVED:

- 3.1 Cumulative Impact: The premises falls within the Cumulative Impact Area (“The Area”) in Brighton city centre (see paragraphs Prevention of Crime and Disorder 2.4.10 – 2.4.14 and Appendices C - E).
- 3.2.1 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 Three representations were received. They were received from a Resident’s Association, a local Councillor and Sussex Police.
- 3.2.3 Representations received had concerns relating to Prevention of Crime and Disorder, Cumulative Impact, Prevention of Public Nuisance.
- 3.2.5 Full details of the representations are attached at Appendix F. A map detailing the location of the premises is attached at Appendix G.

4. 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 crime and disorder

- 2.1 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority expects that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door supervisors so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection. It is the duty of the designated premises supervisor (DPS) to train staff on induction concerning conditions on their premises licence.
- 2.2 It is expected that the designated premises supervisor (DPS) will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises and that staff are authorised by the DPS.
- 2.4 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.
- 2.5 Measures put in place should support the intentions of Operation Marble (police operational order refers), which aims to prevent incidents of crime and disorder within the night time economy, at weekends. Operation Marble operates with a view to minimising the risk to the public of being a victim of public place violent crime; to reduce incidents of violent crime and public disorder within the City Centre; to deal positively with offences and offenders; to secure and preserve evidence which will assist in the prosecution of offenders and to support the night time economy and the responsibly run businesses within it.

Cumulative Impact

- 2.6 Cumulative impact – the licensing authority may receive representations from either a responsible authority or an interested party that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. This should not, however, be confused with ‘need’ which relates more to the commercial demand for a particular type of premises. The issue of ‘need’ is therefore a matter for the market to decide and can, in some circumstances, be a matter for planning consideration; need therefore does not form part of this licensing policy statement.
 - 2.6.1 Special Policy - Cumulative Impact is defined as the potential impact upon the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
 - 2.6.2 The licensing authority after careful consideration has determined that the concentration of licensed premises in a small area of the city centre is causing problems of crime and disorder and public nuisance, and that therefore an approach to Cumulative Impact is necessary as part of its statement of licensing policy.

- 2.6.3 This special policy will refer to a Cumulative Impact area (“the Area”) in the Brighton city centre, a detailed plan of which is attached at Appendix C from the Statement of Licensing Policy (SoLP).
- 2.6.4 The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licences or club premises certificates within the Area, or variations which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact.
- 2.6.5 Any variation application including Minor Variations will potentially come within this special policy, including those for extensions of hours, subject always to an applicant satisfying the authority that there will be no adverse effect on Cumulative Impact.
- 2.6.6 This special policy also applies to all new premises licences and club premises certificates, for example pubs, restaurants and take-away establishments. Off licences also come within this policy as they can contribute to problems of street drinking, proxy purchasing, dispersal issues, preloading and excessive drinking and related disorder.
- 2.6.7 The presumption of refusal does not relieve responsible authorities or interested parties of the need to make a relevant representation. If there are no representations, the licensing authority must grant the application in terms consistent with the operating schedule submitted.
- 2.6.8 Furthermore, this special policy is not absolute. Upon receipt of a relevant representation, the licensing authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy in the light of the individual circumstances of the case. If an application is unlikely to add to the Cumulative Impact of the Area, it may be granted. The Impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of Cumulative Impact, a small restaurant or theatre may be considered exceptional circumstances. The fact that a premises will be/is exceptionally well managed with a well qualified applicant, or that there are no residential premises nearby, will not be considered exceptional.
- 2.6.9 If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that conditions would be ineffective in preventing the problems involved.
- 2.6.14 The Licensing Authority will keep the Cumulative Impact Area and Special Stress Areas under review. Should the authority find that problems of crime and disorder or nuisance are not improving, or are worsening; the Special Policy will be reviewed with a view to bringing the SSAs into the Cumulative Impact Area.

2.7 The Licensing Authority will support:

2.7.1 Diversity of premises: ensures that there is a mix of the different types of licensed premises and attracts a more diverse range of customers from different age groups, different communities and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This will have a positive effect in reducing people's fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time may create opportunities for violent crime and public disorder and therefore supports: mixed use venues encouraging a wider age balance.

2.7.6 Care, control and supervision of premises:

The Licensing authority supports the Business Crime Reduction Partnership and other approved schemes. Where appropriate, premises licence holders should be members of the BCRP for the deterrence to violent crime that such membership provides. The BCRP NightSafe radio scheme is normally expected as an operational requirement for city centre bars, clubs and pubs and is an example of good practice in achieving the aim of reducing crime and disorder and improving public safety. Well managed pub-watch schemes provide information exchange between the premises licence holders and responsible authorities that reduce and deter violent crime and disorder. The council will support a responsible licensing scheme.

2.7.7 The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The police will consider the applicants, objecting to the application where appropriate. The police may suggest crime prevention measures in relation to, for example, the internal layout of the premises, closed-circuit television, help points, lighting and security staff. The police may ask for conditions which support such measures to be imposed when licensing applications are granted, e.g. type of licence, capacity, operating hours restrictions.

2.7.12 Enforcement will be achieved by the enforcement policy.

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)

- 4.6 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.
- 4.8 While each application will always be considered on its merits, as an indication the St James's Street area and the North Laines/area will be considered residential neighbourhoods, and East Street a mixed neighbourhood.
- 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 Licensed premises should normally display prominent, legible signs at exits reminding customers to leave in a quiet, peaceful, orderly manner.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 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: 24.10.2011

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: 24.10.2011

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 Public Health Implications:

Licensing Policy aims to implement and maintain risk and protective factors regarding the misuse of alcohol and drugs.

5.8 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 Premises
3. Appendix C – Brighton & Hove City Council – Cumulative Impact Area
4. Appendix D – Brighton & Hove City Council – Special Stress Area
5. Appendix E – Measures to be considered in SSA's
6. Appendix F – Representations
7. Appendix G – 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)

b) The prevention of crime and disorder

The premises have a secure shutter behind the shopfront. CCTV will be installed, and staff have a panic alarm at the counter. The shop is relatively small, with the counter near the entrance, and the layout allows staff of view the entire premises.

Precise conditions to be agreed with the police.

c) Public safety

Given the nature of the premises no measures beyond those required by relevant health & safety and fire safety legislation will be necessary. Staff will be trained appropriately.

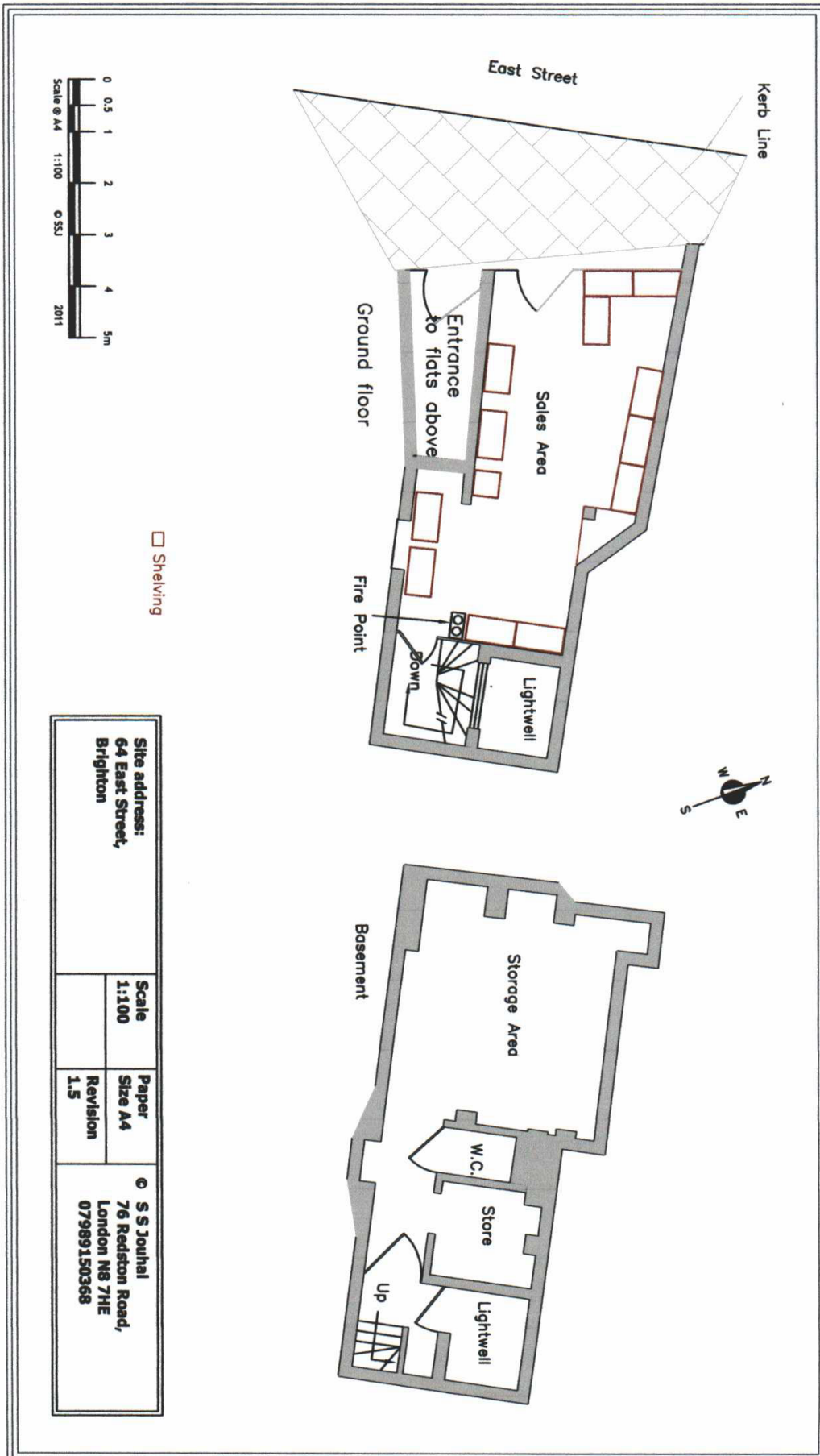
d) The prevention of public nuisance

The premises operate as a small, specialist off-licence with no late-night opening hours, and are therefore unlikely to give rise to public nuisance.

e) The protection of children from harm

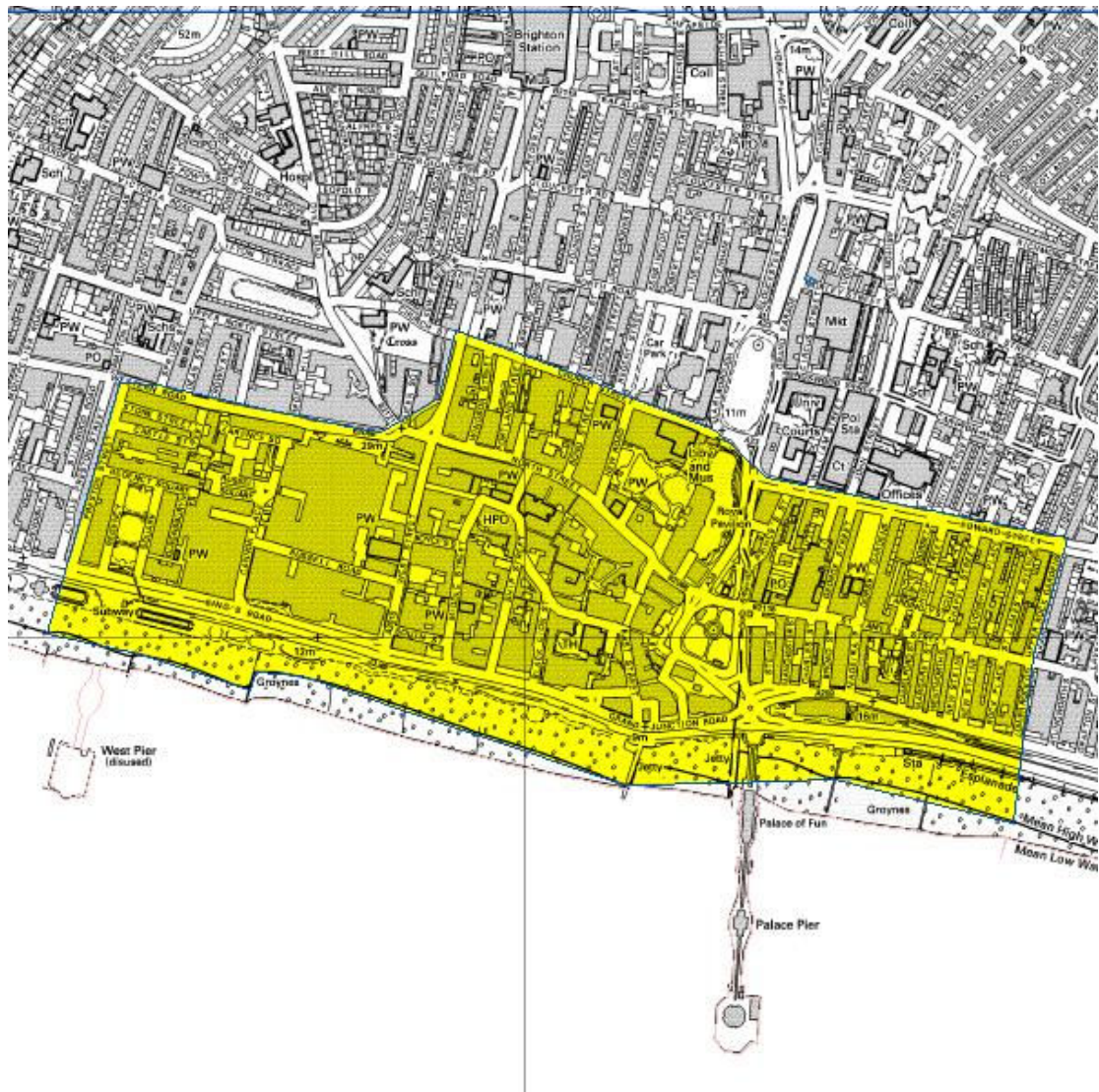
Given the specialist nature and price range of the products sold, the premises do not attract youngsters, but a challenge-25 scheme will be implemented, a refusals book kept and staff trained appropriately

APPENDIX B



APPENDIX C

Brighton & Hove City Council - Cumulative Impact Area

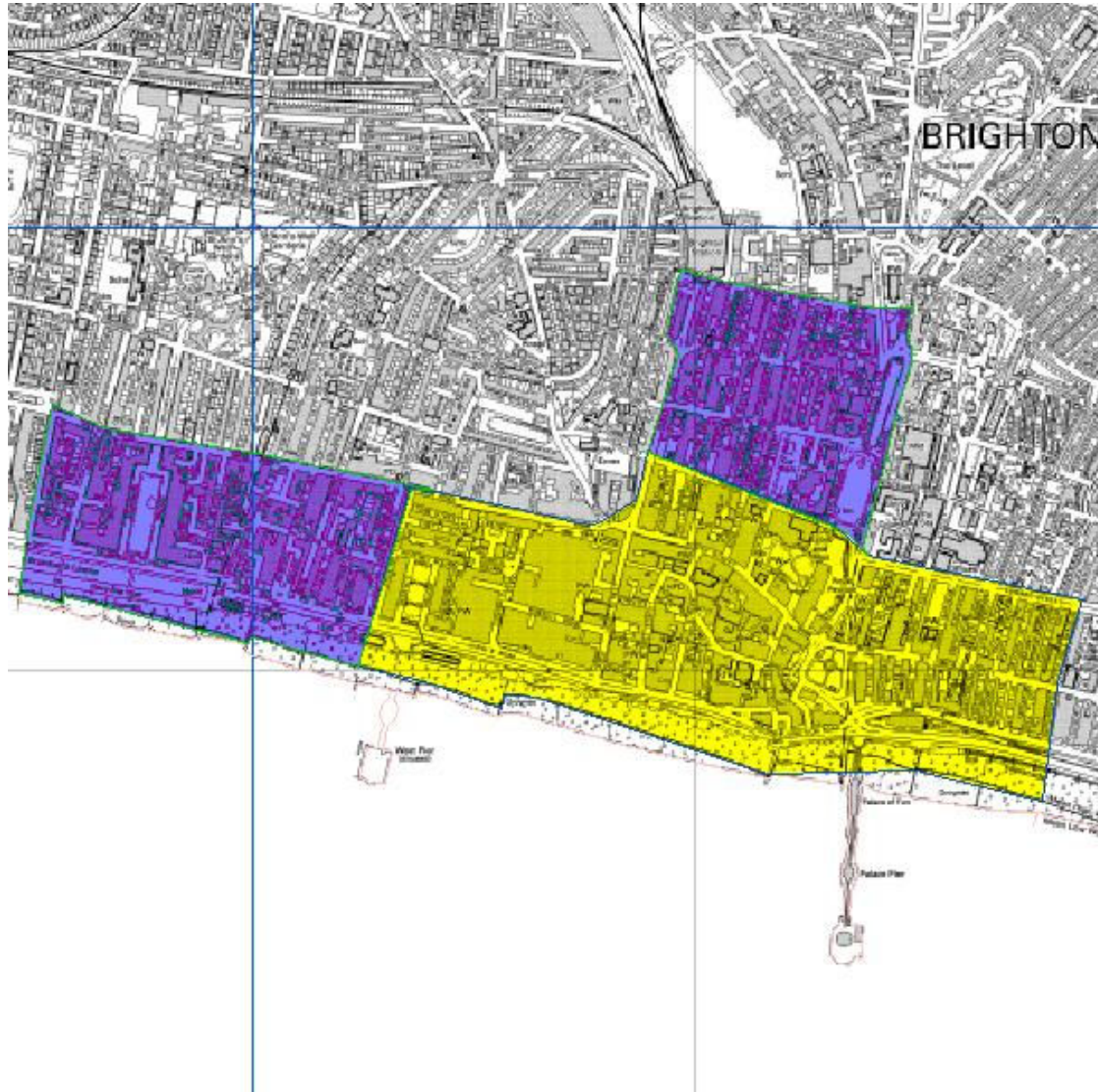


The Cumulative Impact Area comprises the area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Spring Street to the junction with the west side of Dyke Road at its eastern end; from there, north-east to the junction of the north side of Ayr Street with the west side of Queens Road and then northward to the north-west corner of Queens Road junction with Church Street; thence along the north side of Church Street eastwards to its junction with Marlborough Place and continuing south-east across to the north-western junction of Edward Street; along the north side of Edward Street to the east side of its junction with Egremont Place and southward along the eastern sides of Upper Rock Gardens and Rock Gardens; southward to the mean water mark and following the mean water line westward to a point due south of the west boundary of Preston Street; northward to that point and along the west side of Preston Street to its northwest boundary and then diagonally across Western Road to its intersection with the west side of Spring Street.

APPENDIX D

Brighton & Hove City Council – Special Stress Areas

The areas recommended for further monitoring and detailed guidance within the Special Policy comprise the following as pictured below:-



Area 1 - an area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Spring Street and along the north side of Western Road, Hove to its intersection with the west side of Holland Road; southward along the west side Holland Road to its end and then due south across the Kingsway to the mean water mark; along the mean water mark eastwards to the intersection with the boundary of the cumulative impact area and along that boundary northwards to the intersection of Western Road, Brighton with the west side of Spring Street.

Area 2 – an area bounded by and including: from a point on the west side of the Surrey Street / Terminus Road intersection adjacent to Guildford Road eastwards along the north side of Trafalgar Street to its eastern end; due east across York Place to the east side of Richmond Place; southward along the east side of Richmond Place and Grand Parade to the cumulative impact area's Edward Street boundary; westwards along the cumulative impact area's northern boundary to the north-west corner of the Church Street junction with Queens Road; north along the west sides of Queens Road and Surrey Street to the point on the west side of the Surrey Street / Terminus Road intersection adjacent to Guildford Road.

APPENDIX E

Measures to be included for consideration in SSAs are:

Matters that would normally be expected in operating schedules -

- the adoption of a “Challenge 21” policy with acceptable proof of id as per existing Statement of Licensing Policy
- all off sales to be made in sealed containers for consumption away from the premises
- a smoking policy which includes an assessment of noise and litter created by premises users
- the use of plastic or polycarbonate drinking vessels and containers, especially in outside areas or after specified hours
- a policy in relation to searching customers and for drugs, weapons, seized or lost and found property
- use of a refusals book for registering attempts to buy alcohol by under-age persons or refusals to those intoxicated
- the installation of a digital cctv system by liaison with, and to a standard approved by, Sussex police
- policies for dispersal of customers which may include signage regarding taxi services’ telephone numbers and advice to respect neighbours and minimize noise
- systems to ensure any SIA door staff or Mobile Support Unit personnel display appropriate badges when on duty

Items to which positive consideration would be given -

- membership of Brighton Crime Reduction Partnership, Pubwatch, Neighbourhood Watch or similar schemes
- use of ‘nightsafe’ radio system or similar accredited scheme
- regular training and reminders for staff in respect of licensing legislation, policies and procedures; records of which should be properly recorded and available for inspection
- records of regular checks of all parts of the premises in relation to drug use
- systems in place to ensure details of barred clients are exchanged with other operators
- giving an agreed minimum notice of special events (screening of major sports events, birthday parties, adult entertainment, etc.) to relevant authorities and use of appropriate additional measures at such events

Matters that might be recommended for appropriate restrictions -

- entry to premises by under 18s after certain times
- consumption of food and drink in smoking areas
- access to outside seating areas after certain times

APPENDIX F

SC CON END: 19.10.11

Valid ✓ CD, PN,

(A)

Felicity Broder

From: Jason Kitcat [jason@jasonkitcat.com]
Sent: 28 September 2011 00:06
To: EHL Safety
Subject: Objection to application 1445/3/2011/02185/LAPREN Whisky Shop

CI

Dear Licensing Team

I am writing to object to licence application 1445/3/2011/02185/LAPREN for Whisky Shop on East Street, Brighton.

This would be a new licensed venue in a premises which previously have traded as a menswear shop. Granting this licence would be the addition of a new venue providing alcohol in the heart of the cumulative impact zone. There is already a significant problem caused by the density of licensed premises on East Street which has been the subject of multi-agency meetings, additional Police resource being allocated and continual disturbance to local residents.

I am objecting in terms of:

- * Prevention of Crime & Disorder
- * Prevention of Public Nuisance
- * Cumulative Impact

I strongly urge the committee to reject this licence application as the area cannot cope with another licensed venue.

regards,
Cllr Jason Kitcat

--
Cllr Jason Kitcat
Green City Councillor, Regency Ward
Brighton & Hove City Council

<http://www.jasonkitcat.com>
+ 44 (0) 7956 886 508

Cabinet member for Finance & Central Services

|

Representation to Licensing Application

(B)

Con: 19.10.2011

SC

valid ✓

CD

PN

CI

Name and Address of premises subject to application.

Licence number: 1445/3/2011/02185/LAPREN

19 OCT 2011

The Whisky Shop
64 East Street Brighton BN1 1HQ

Health...

Your name and address (residence or business).

Clarendon Mansions Residents Association
Khosro Bashi, Chair
Flat 6 Clarendon Mansions, 80 East Street, Brighton BN1 1NF

Note: Whether or not your representation can be considered depends upon whether your residence or business is likely to be directly affected by disorder and disturbance occurring or potentially occurring on the premises or immediately outside the premises.

Please state the substance of your representation within one (or more) of the following categories (representations outside these categories cannot be considered).

Cumulative Impact Policy

These premises are situated in the designated Cumulative Impact Area and residents are concerned that this proposal to sell alcohol will give rise to negative cumulative impact. The Cumulative Impact Policy recognises "that the concentration of licensed premises in a small area of the city centre is causing problems of crime and disorder and public nuisance, and that therefore an approach to Cumulative Impact is necessary ...". The last thing needed on East St is another outlet for the sale of alcohol in an area which is busy at all times of day and night, with a concentration of licensed premises.

A further reason for our objection is that licences are granted to the premises, not the business. Therefore, whatever the current intentions may be, we are concerned for the future and what this premises could evolve into.

The Prevention of Crime and Disorder

This street has been identified by the police in a recent report as an area of concern. Issues include crime, anti social behaviour and public safety. Further premises, however well run, would only add to the problems caused by the sale of alcohol and contribute to disorderly conduct and noise nuisance which is already an issue for residents in this area.

Public Safety

Any increase in disorder and public nuisance would impact directly on the safety of residents living in the vicinity of these premises.

The Prevention of Public Nuisance

The Protection of Children from harm

Signed: ...Khosro Bashi..... Date: 18th October 2011.....

Name: Khosro Bashi, Chair Clarendon Mansions Residents Association



Con: 19.10.2011 SC

Sussex Police
Serving Sussex

www.sussex.police.uk | 0845 60 70 999

Brighton & Hove City Council

19 OCT 2011

©

Valid ✓ CD
PN
CI

Health, Safety & Environment

Brighton & Hove Licensing Unit
Licensing
4th Floor
Police Station
John Street
BRIGHTON
BN2 0LA

Tel: 0845 60 70 999 ext 50826
Fax: 01273 66 55 96

Email: david.bateup@sussex.pnn.police.uk

18th October 2011

The Licensing Technical Support Officers
Environmental Health
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
BRIGHTON
BN1 1JP

Dear Sirs,

SUSSEX POLICE REPRESENTATION AGAINST THE APPLICATION FOR A NEW PREMISES LICENCE FOR WHISKY SHOP, 64 EAST STREET, BRIGHTON, BN1 1HQ.

Sussex Police oppose the application dated 19th September 2011 for a premises licence by Thomas and Thomas Partners LLP on behalf of Glenkeir Whiskies Ltd. The basis for this opposition is that the grant of a new licence for these premises will not promote the licensing objectives, particularly the prevention of crime and disorder and the prevention of public nuisance, but instead, is likely to give rise to potential negative cumulative impact via an increase in public nuisance and crime and disorder.

The application is for the supply of alcohol (off sales only) from 08:00 to 23:00 Monday to Sunday, with corresponding opening times of 08:00 to 23:00 seven days a week.

The premises in respect of which the application is made are situated within the Brighton & Hove City Council cumulative impact area. There are currently

discussions in progress at the City Council to extend the cumulative impact boundary further west towards Boundary Road in Hove, because of the number of complaints about noise nuisance and crime and disorder.

The concentration of licensed premises within an area of the City causes problems of anti social behaviour, crime and disorder and public nuisance. In consequence of this, after due consultation and consideration, on 13th March 2008 the Licensing Authority resolved that it was both appropriate and necessary to adopt a special policy in relation to cumulative impact. The special policy was reviewed as part of the third statement of licensing policy last year, and was adopted by a full Council on 16th December 2010, coming into effect in January of this year.

Paragraph 2.6.4 of the Council 2011 Statement of Licensing Policy states that "The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licenses or club premises certificates with the Area, or variations which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact".

Paragraph 13.29 of the Secretary of State's Guidance to the Licensing Act 2003 provides:

"The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licenses...that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives".

Contrary to the Secretary of State's Guidance, the applicant fails to demonstrate in its operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. The application makes no reference to cumulative impact whatsoever, and nothing in the application or the operating schedule either rebuts the presumption of refusal contained within Paragraph 2.6.4 of the Licensing Authority's statement of licensing Policy, or provides any reason for the Licensing Authority to depart from its special policy.

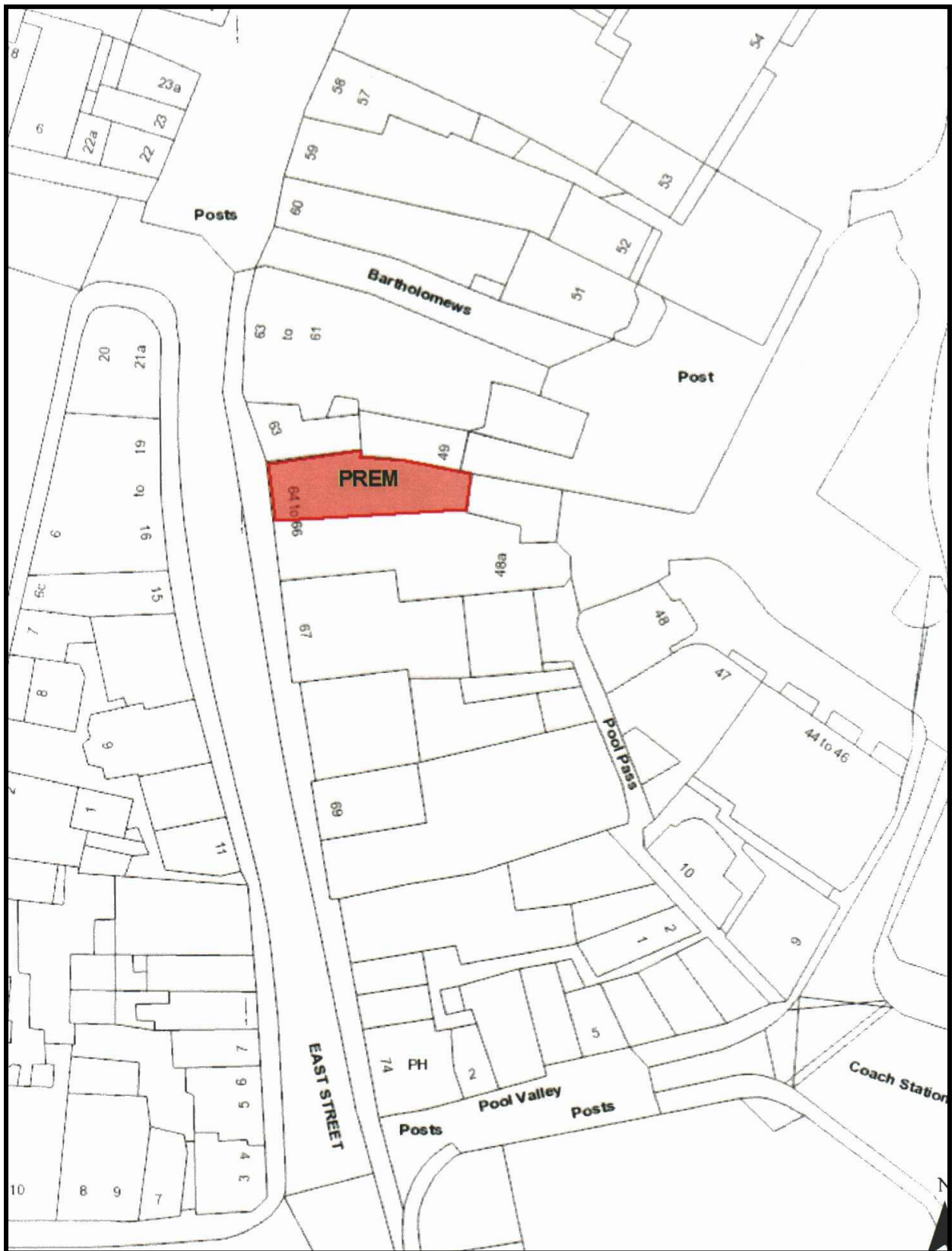
Sussex Police say that there is nothing in this application which should make it an exception to the cumulative impact policy. In view of the above, the Licensing Authority is invited to refuse the application.

Yours faithfully,



Graham Bartlett
Chief Superintendent
Divisional Commander
Brighton & Hove Division

APPENDIX G



LICENSING PANEL

(Licensing Act 2003 Functions)

Agenda Item 80

Brighton & Hove City Council

Subject:	Application for a New Premises Licence under the Licensing Act 2003		
Premises:	Tesco, 3-5 West Way, Hove, BN3 8LD		
Applicant:	Tesco Stores Ltd		
Date of Meeting:	16 November 2011		
Report of:	Head of Environmental Health & Licensing		
Contact Officer:	Name:	Sarah Cornell	Tel: 295801
	Email:	Sarah.Cornell@brighton-hove.gov.uk	
Ward(s) affected:	Hangleton and Knoll		

FOR GENERAL RELEASE

1. PURPOSE OF THE REPORT:

- 1.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for Tesco.

2. SUMMARY OF THE APPLICATION PROCESS:

- 2.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for Tesco.

- 2.2 The application is for:

A New Premises Licence under the Licensing Act 2003.

The application proposes:

Retail premises (supermarket) selling a range of goods and services. This includes the sale of alcohol for consumption off the premises. Sales of alcohol for consumption off the premises are made from the supermarket sales floor as shown on the plan.

- 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 proposed activities:

	Proposed
M Supply of Alcohol	Off the Premises Every Day 06.00 – 23.00
O Hours premises are open to public	Every Day 06.00 – 23.00

3. REPRESENTATIONS RECEIVED:

- 3.1 The premises does not fall in the Cumulative Impact Area or the Special Stress Areas.
- 3.2.1 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 a local resident.
- 3.2.3 The representation received had concerns relating to (Prevention of Crime and Disorder and the Prevention of Public Nuisance
- 3.2.4 A representation was received from Sussex Police which included conditions relating to Prevention of Crime and Disorder. The representation was withdrawn as the applicant agreed to the conditions and amended the operating schedule accordingly.
- 3.2.5 Full details of the representation and agreement are attached at Appendix C. A map detailing the address of the person who has submitted the representation and their location in relation to the premises is attached at Appendix D.

4. 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 crime and disorder

- 2.1 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority expects that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door supervisors so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection. It is the duty of the designated premises supervisor (DPS) to train staff on induction concerning conditions on their premises licence.
- 2.2 It is expected that the designated premises supervisor (DPS) will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises and that staff are authorised by the DPS.
- 2.4 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.

2.7 The Licensing Authority will support:

- 2.7.1 Diversity of premises: ensures that there is a mix of the different types of licensed premises and attracts a more diverse range of customers from different age groups, different communities and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This will have a positive effect in reducing people's fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time may create opportunities for violent crime and public disorder and therefore supports: mixed use venues encouraging a wider age balance.
- 2.7.6 Care, control and supervision of premises:
The Licensing authority supports the Business Crime Reduction Partnership and other approved schemes. Where appropriate, premises licence holders should be members of the BCRP for the deterrence to violent crime that such membership provides. The BCRP NightSafe radio scheme is normally expected as an operational requirement for city centre bars, clubs and pubs and is an example of good practice in achieving the aim of reducing crime and disorder and improving public safety. Well managed pub-watch schemes provide information exchange between the premises licence holders and responsible authorities that reduce and deter violent crime and disorder. The council will support a responsible licensing scheme.
- 2.7.7 The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The police will consider the applicants, objecting to the application where appropriate. The police may suggest crime prevention measures in relation to, for example, the internal layout of the premises, closed-circuit television, help points, lighting and security staff.

The police may ask for conditions which support such measures to be imposed when licensing applications are granted, e.g. type of licence, capacity, operating hours restrictions.

2.7.12 Enforcement will be achieved by the enforcement policy.

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)
- 4.6 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.
- 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).
- 4.11 Licensed premises should normally display prominent, legible signs at exits reminding customers to leave in a quiet, peaceful, orderly manner.

Strategic Integration

- 6.5 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include the use of closed circuit television cameras, use of the NightSafe radio system or accredited scheme, the provision and use of shatterproof drinking receptacles, drugs and weapons

search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening.

6.6 The licensing authority will have regard to the need to disperse people quickly and safely from the city centre to avoid concentrations which may produce disorder and disturbance.

6.8 Other regulatory regimes

This policy avoids duplication with other regulatory regimes wherever possible.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 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: 02.11.2011

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: 01.11.2011

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 Public Health Implications:

Licensing Policy aims to implement and maintain risk and protective factors regarding the misuse of alcohol and drugs.

5.8 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 Premises
3. Appendix C – Representation and agreement
4. Appendix D – 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)

We are a national retailer that sells alcohol as part of a broad offering of goods and services. We have held off-licences in our stores for many years and are an approved British Institute of Inn-keeping examination centre. We have written training policies and formal training programmes are in place, which ensure our people are equipped to meet all licensing objectives. All training and revision/refresher materials are reviewed regularly. All stores currently comply with our 'Think 25' policy, this is brought to customer's attention through point of sale material within the store. We take legal compliance very seriously and in addition to local training we employ a central alcohol licensing compliance manager and have a compliance committee.

b) The prevention of crime and disorder

The premises will have digital CCTV system that covers many areas of the shop floor, including the proposed area which will be used for beer and wine, should we be successful with our application. Images will be retained for a minimum of 21 days and made available on enforcement request. Ordinarily, a member of the Management team will be on the premises all the time the store is open. A person will have responsibility for the premises whilst the premises are open.

c) Public safety

A person will have responsibility for the premises whilst the premises are open. Management will be trained to support the running of the premises including looking after our customers and staff. The store will adhere to all rules and regulations relating to public safety.

d) The prevention of public nuisance

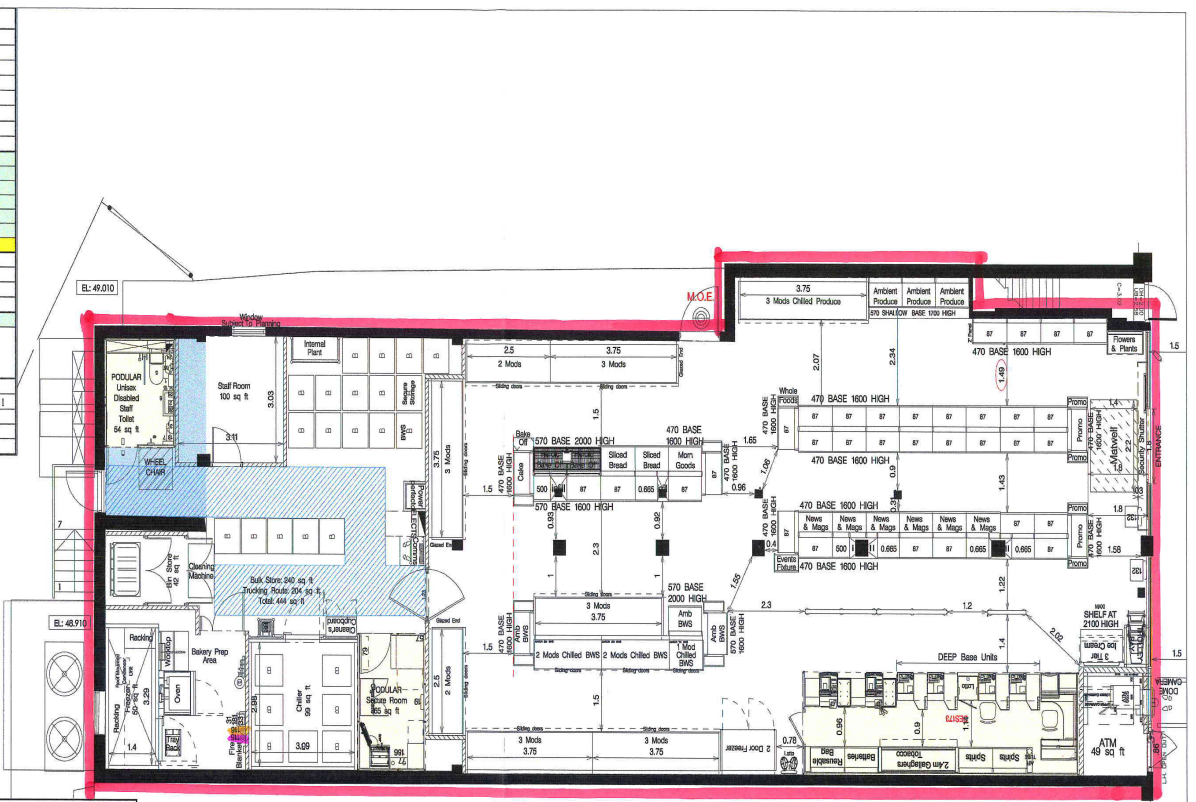
We intend to be an active member of the community.
We welcome the opportunity to liaise with Police and enforcement authorities should the need arise.

e) The protection of children from harm

All staff will be trained and regularly refreshed in the corporate 'Think 25' Policy. Staff will be trained to look at the customer and 'Think 25' when selling alcohol.
A till prompt will appear on the initial sale of alcohol that will remind the seller of their responsibilities including not to sell alcohol to anyone under the age of 18.
The store will display signage around the premises informing both staff and customers of our 'Think 25' policy on alcohol.

APPENDIX B

TESCO EXPRESS	
Attendance	
Cluster	
Commodity Flex	
Net sales	2299
Gross Ground	3467
Gross First / Basement	0
Total Gross	3467
Net/Gross	66.31%
Total Mod Count	
Department	Achieved
Chilled	22
Frozen	2
Chilled BWS	5
Ambient	62
Total	91
Ladder racks	12
Linear	313
Yield	7.3
Car Parking	TBC
Approved Compromises	
EAG Approved	11.01.11
Architects Drawing	4377 PLANS30-08-11
Acquisition Exec	Lee Nicol
Architect	Ancher Architects
Project Manager	TBC



KEY	
	Area Of Extension = 138 sq ft
	Area Of First Floor / Basement
	Area Of Floor Level Difference = xxxx sq ft
	Problem Column
	Approved Column Removal

REV.	AMENDMENTS	DATE	REV.
#	PRELIMINARY RETAIL LAYOUT CREATED	11.11.10	
#A	EAG APPROVED	11.01.11	
#B	NEW BUILDING ADDED AMEND BOM & SHOP FLOOR TO SUIT	01.09.11	
#C	AMEND BOM LAYOUT	02.09.11	

AMENDMENTS	DATE
115 Fire Extinguisher Foam	
116 Fire Extinguisher Co2	

DRAWING NO. BRIGFeasrg#c.dgn	PROJECT
PHASE 1 ISSUE #C	3-5 WEST WAY, HANDLETON
SYSTEM ID: RETAIL	HOVE
SCALE 1:100 @ A3 DATE 02.09.11	DESCRIPTION
PLANNER Glen Franklin	PROPOSED RETAIL LAYOUT STANDALONE

PROJECT	3-5 WEST WAY, HANDLETON
HOVE	
DESCRIPTION	PROPOSED RETAIL LAYOUT STANDALONE

TESCO express

TESCO STORES LIMITED
EXPRESS GROUP
P.O. BOX 400, CYPRIUS BUILDING, SHIRE PARK
WELWYN GARDEN CITY, HERTS, AL1 1AB
TELEPHONE : 07707 395160

THE COPYRIGHT AND ALL OTHER RIGHTS IN THIS DRAWING ARE RESERVED BY THE SUBSCRIBER HERETO. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE PRIOR WRITTEN CONSENT OF THE SUBSCRIBER. © 1997 TESCO STORES LIMITED

Document is Restricted

APPENDIX D

