

**APPENDIX B**

2009/01733/LAPREV

EB

R-08.09.09  
C-01.10.09

**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I Edward Bulger  
(Insert name of applicant)

**apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below**

**Part 1 – Premises or club premises details**

Postal address of premises or, if none, Ordnance Survey map reference or description <b>Entourage 1 Middle Street Brighton</b>		03 SEP 2009
Post town <b>Brighton &amp; Hove</b>	Post code (if known) <b>BN1 1AL</b>	

Name of premises licence holder or club holding club premises certificate (if known) <b>Mr Jeremy Nargi Flat 3   Avalon Apartments West Street Brighton BN1 2RP</b>
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Number of premises licence or club premises certificate (if known) <b>1445/3/2008/01015/LAPREV</b>
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**Part 2 - Applicant details**

I am

**Please tick yes**

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
  - b) a body representing persons living in the vicinity of the premises
  - c) a person involved in business in the vicinity of the premises
  - d) a body representing persons involved in business in the vicinity of the premises

- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

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

**Please tick**

Mr  Mrs  Miss  Ms  Other title (for example, Rev)

**Surname**

**First names**

**I am 18 years old or over**

**Please tick yes**

**Current postal address if different from premises address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

Name and address
Telephone number (if any)
E-mail address (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address Edward Bulger Environmental Protection Officer Environmental Protection Team Brighton and Hove City Council Bartholomew House Bartholomew Square Brighton BN1 1JP
Telephone number (if any) 01273 292167
E-mail address (optional) Edward.bulger@brighton-hove.gov.uk

**This application to review relates to the following licensing objective(s)**

Please tick one or more boxes

- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input type="checkbox"/>            |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/>            |

**Please state the ground(s) for review** (please read guidance note 1)

I am calling for a review, under the prevention of public nuisance licensing objective, of the premises licence of Entourage 1 Middle Street Brighton BN1 1AL

As a result of an investigation following complaints, a noise abatement notice dated 2 July 2009 was served on Mr Anthony Smith the Designated Premises Supervisor of Entourage for noise arising from recorded music.

A breach of that notice was witnessed by Annie Sparks, Environmental Health Manager at and around 5.41am on the 7th August 2009 and at and around 5.27am on the 14<sup>th</sup> August 2009. I attach Ms Sparks' statement of witness dated 27 August 2009 as part of this submission.

Further, as a result of a number of complaints received about noise from customers of Entourage outside the premises in the early hours of the morning, a series of visits were made.

These visits were undertaken by myself and Annie Sparks.

The visits took place on Tuesday 14 July 2009 at 6.00am when the premises were found to be closed; Friday 17 July 2009 at about 6.00am when the premises were open and the noise from customers outside was at an unacceptable level; 7 August 2009 at about 5.30am when the noise was unacceptable both from music from within the premises and customers on the street; 14 August 2009 at about 5.00am when again the noise from music from within the premises and customers in the street was at a level which was judged to be excessive for the location and likely to disturb anyone sleeping in the immediate neighbourhood. I attach my own statement of

witness dated 28 August 2009 as part of this submission.

The grounds for requesting the review of the licence are therefore breach of a statutory noise nuisance notice establishing a public nuisance and lack of reasonable control of customers outside the premises, giving rise to a public nuisance.

I would ask that the panel consider amending the opening hours of the premises by omitting the following section of the premises licence and adding the amended section below:

**OMIT:**

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

**Exhibition of a Film** – Indoors. To permit the playing of recorded films whether by video or DVD throughout the opening hours.

Every Day 00:00 - 00:00

**Making music** – Indoors. A hi-fi system with speakers will be used. It is noted that low volume background incidental music is exempt from the regulations.

Every Day 00:00 - 00:00

**Performance of Recorded Music** – Indoors. To permit recorded music with or without a DJ. It is noted that background incidental music is not a licensable activity.

Every Day 00:00 - 00:00

**Dancing** – Indoors. Floor of premises for impromptu dancing. It is not intended to promote use of the premises for dancing.

Every Day 00:00 - 00:00

**Late Night Refreshment** – Indoors.

Every Day 23:00 - 05:00

**Sale by Retail of Alcohol**

Every Day 00:00 - 00:00

**The opening hours of the premises**

Every Day 00:00 - 00:00

**ADD:**

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

**Exhibition of a Film** – Indoors. To permit the playing of recorded films whether by video or DVD throughout the opening hours.

Every Day 10:00 - 03:00

**Making music** – Indoors. A hi-fi system with speakers will be used. It is noted that low volume background incidental music is exempt from the regulations.

Every Day 10:00-03:00

**Performance of Recorded Music** – Indoors. To permit recorded music with or without a DJ. It is noted that background incidental music is not a licensable activity.

Every Day 10:00 - 03:00

**Dancing** – Indoors. Floor of premises for impromptu dancing. It is not intended to promote use of the premises for dancing.

Every Day 10:00 - 03:00

**Late Night Refreshment** – Indoors.

Every Day 23:00 - 03:00

**Sale by Retail of Alcohol**

Every Day 10:00 - 03:00

**The opening hours of the premises**

Every Day 09:30 - 03:30

The above changes are necessary to allow the License Holder to meet the licensing objective of the prevention of public nuisance.

**The following changes are required to avoid doubt in relation to operating hours:**

**Annex 2**

**OMIT:**

**For the prevention of crime and disorder:**

2. SIA Registered door supervisors must operate from the premises on Friday and Saturday from 21.00 until 06.00. After 06.00 management will risk assess the premises with a view to extending these hours.

**ADD:**

**For the prevention of crime and disorder:**

2. SIA Registered door supervisors must operate from the premises on Friday and Saturday from 21.00 until closing.

**OMIT:**

**For the prevention of public nuisance:**

17. Windows are to remain closed from 23.00 to 08.00. The main door is to be kept closed from 23.00 to 08.00 save for access and egress (variation application 04/06/2008)

**ADD:**

**For the prevention of public nuisance:**

17. Windows are to remain closed from 23.00 until closing. The main door is to be kept closed from 23.00 till closing save for access and egress (variation application 04/06/2008)

**Please provide as much information as possible to support the application**  
(please read guidance note 2)

Please see Witness Statement of Annie Sparks and Edward Bulger attached hereto.

**Please tick yes**

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

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**If you have made representations before relating to this premises please state what they were and when you made them**

**Please tick yes**

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 3)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature *EM Bulger*  
Date *3 September 2009*  
Capacity *Responsible Authority*

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 5)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**Notes for Guidance**

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.



**BRIGHTON & HOVE CITY COUNCIL**

**WITNESS STATEMENT**  
(CRIMINAL PROCEDURE RULES, PART 27)

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**STATEMENT OF:** Edward Bulger

03 SEP 2009

**AGE OF WITNESS** Over 18

**OCCUPATION OF WITNESS:** Environmental Protection Officer

Health, Safety & Environment

This statement, consisting of 2 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signed: *EMBulger*

Dated the 28<sup>th</sup> day of August 2009.

( \_\_\_\_\_ being unable to read the above statement, I,  
of \_\_\_\_\_ read it to him/her before he/she signed it.

Dated the ..... day of .....200

I am Edward Bulger an Environmental Protection Officer employed by Brighton & Hove City Council.

Following complaints to the council about noise in the early hours of the morning allegedly arising from Entourage, 1 Middle Street Brighton BN1 1AL, I decided to investigate by visiting the location at a time when the premises would be open and others in the vicinity were not so that there would be no confusion with customers of other licensed premises.

I first visited at 6.00am on Tuesday 14<sup>th</sup> July 2009 and found the premises to be closed. I could see no activity from any of the other licensed premises in the area.

I visited again at 6.00am on the following Friday morning, 17th July 2009. The weather was dry with moderate wind.

As I arrived in Middle Street from Kings Road I noticed a commercial refuse collection taking place and noted that the collection process was very loud in the narrow street. When the lorry went off, my attention was directed to about eight customers, some of whom were smoking, talking loudly outside Entourage. There were two door supervisors on duty and they were closing the door as customers exited the premises. They made no effort to quieten the customers outside. A SASSCO marked vehicle arrived and a male got out and talked loudly to the door supervisors who were a distance of about 5m away. This exchange seemed unnecessarily loud.

I could not hear any music from inside the venue.

I entered the premises and spoke to the deputy duty manager who gave his name as David Mil. I noticed an unattended DJ console to the left as I entered and asked if it was wired through the limiter and was assured that it was. The music inside the venue was playing and I judged it to be quite loud though it was not breaking out to the street to any great extent.

I mentioned the noise from the group outside and the need to control the noise as there are residential neighbours who may well be disturbed by the loud voices. After a general discussion I left and drove around the block and parked a little way up Middle Street from the premises

At 6.21am a female in a group of five sitting on the window sill on the Middle Street side of the premises shouted 'don't let me get scissors out'. A male walking from the premises up the middle of the street shouted back to the group 'Rachael Rachael you scouser'. At 6.25am door staff appeared to ask the group to move on. Moments later a boisterous group of males emerged, shouting as they left; a mock fight took place in the street accompanied by shouting and swearing. At 6.32 the duty manager emerged from the premises and successfully moved the group away. I left shortly after as the premises appeared to be closing.

I judged that if neighbours had windows open the noise from outside the premises would have disturbed sleep.

I later discussed my findings with Annie Sparks who agreed to undertake a second and subsequently third visit to establish whether there were grounds to review the licence.

*E M Bulger*  
*28/8/09*

Home Address: 90 B+HOC

Home Telephone No.: \_\_\_\_\_ Business Telephone No.: \_\_\_\_\_

Maiden Name: \_\_\_\_\_

**Dates to be avoided. Delete dates of non-availability of witness.**

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**STATEMENT TAKEN BY** (print name) \_\_\_\_\_

SIGNED: \_\_\_\_\_ Page \_\_\_\_\_

**BRIGHTON & HOVE CITY COUNCIL**

03 SEP 2009

**STATEMENT OF WITNESS**

(Criminal Procedure Rules 2005, r27.1(1); Health  
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1990, s5B)

**STATEMENT OF ANNIE SPARKS**

**AGE OF WITNESS: Over 18**

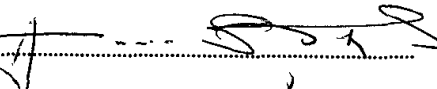
(if over 18 insert "over 18")

**Occupation of Witness:**

**Environmental Health Manager**

**(WITNESS TO SIGN AT THE END OF THE STATEMENT AND AT THE COMPLETION OF THE FOLLOWING DECLARATION)**

**THIS STATEMENT (CONSISTING OF 5 PAGE(S) EACH SIGNED BY ME) IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF AND I MAKE IT KNOWING THAT, IF IT IS TENDERED IN EVIDENCE, I SHALL BE LIABLE TO PROSECUTION IF I HAVE WILFULLY STATED IN IT ANYTHING WHICH I KNOW TO BE FALSE OR DO NOT BELIEVE TO BE TRUE.**

SIGNATURE 

I Annie Sparks am employed by Brighton and Hove City Council. I am an Environmental Health Manager and I manage the Environmental Protection Team at Brighton and Hove City Council. I have been investigating noise nuisance cases under the provisions of the Environmental Protection Act 1990 for over 17 years. I have a Diploma in Acoustics and I am a Chartered member of the Chartered Institute of Environmental Health Officers. I manage the Council's out of hours Noise Patrol Service. I am an authorised officer under the provisions of the Environmental Protection Act 1990, and the Noise Act 1996.

Entourage is a bar at 1 Middle Street. The Environmental Protection Team had received complaints about noise from amplified music and noise from people congregating on the pavement outside the premises. On 2<sup>nd</sup> July 2009 a noise abatement notice was served on the designated premises supervisor of the premises concerning noise nuisance arising from amplified music played at the premises. The Environmental Protection Team continued to receive complaint about noise from music and noise from people congregating outside the premises. The complaints also related to noise at 5.00am and 6.00am, when other licensed premises were closed.

The case officer, Edward Bulger, asked me to visit one of the complaints, Paul Eastman of Leona House, 74 Middle Street. It was a dry, still, warm morning. I arrived at 5.30 am on the 7<sup>th</sup> August 2009. When I drove past Entourage I noted approximately 10 people congregating on the pavement directly outside. As I got out of the car I could clearly hear Michael Jackson's song 'Billie Jean' being played and coming from Entourage. I noted there were two door supervisors stood by the doors to Entourage, and these were closed. I noted the door supervisors were wearing black and their green identification armbands. I also noted that there were no other opened licensed premises in the street. Churchill Place Hotel and The Globe were closed. Paul Eastman confirmed that all the guest rooms were occupied so I sat and assessed the noise from the ground floor front sitting room and

dining area. I sat in a chair adjacent to the windows overlooking Middle Street. These sash windows could not be opened. 5.40am I noted a man dancing around in the street. He then lit a cigarette. At 5.41am a man wearing a red shirt came out of Entourage and seemed to be a member of staff, I assume he was the manager. The door was never left open and when closed I could clearly hear a base beat. I also noted a woman wearing black leggings using a mobile phone and a door supervisor walking around the pavement adjacent to the doors. 5.45am a man wearing a T shirt with 72 on it came out of the bar and stood on the pavement while he lit a cigarette. He leant against the front of the bar and spoke to another woman. Another woman came out of the bar while one of the women who had been stood on the pavement went back into the bar. I noted that there was a continued babble of conversation coming from the customers stood on the pavement. 5.49am I noted three women speaking to one of the door supervisors. One of the women then went back into the bar and the remaining two carried on with the conversation. At 5.50am the man with the 72 T shirt returned into the bar. Each time the door was opened the music beat got louder. I noted there was no lobby to the entrance door. Another man came out of the bar and lit a cigarette. I note the door supervisor was still speaking to the same two women. 5.52am the base beat was getting stronger but I could not define the song. I also noted the ongoing babble of conversation, and laughter. Two men arrive from the seafront and lit up cigarettes and stood outside the bar. There was very little traffic passing up the street, and the noise from the customers talking in the street was reverberating against the hard surfaces of the surrounding buildings. Noise from the people talking was intrusive. I noted there were 8 people (including door supervisors) stood on the pavement in front of the bar. I then note a SASSCO door security van pull up in front of the bar and quickly drive off. Two people come out of the bar and get into a taxi. The same door supervisors were still speaking happily to the same two women. One of the women then put her arm around the door supervisor. Two women then left the bar and sit on the wall outside the Churchill Palace Hotel. Both were in conversation. Two more people leave the bar and come and sit outside the Churchill Palace Hotel. Both were talking and laughing loudly. I then counted six people outside the Churchill Palace Hotel and they were talking loudly. When I looked back at the bar I noted the same door supervisor and the same two women still in conversation. There were 8 people outside Entourage stood on the pavement. I noted 4 people outside the Churchill Palace Hotel shouting. 2 of these people went and stood on the pavement outside Entourage and the other 2 left. At 6.04am there were 15 people (including door supervisors) on the pavement outside Entourage. The continual noise of their conversation was intrusive. The doors to the bar remained closed. 2 of the customers went and stood in the road. The same door supervisor then picked up one of the same women he had been talking to and kissed her. 6.10am there were 13 customers outside on the pavement in front of the bar and the same door supervisor was joking with the same two women and kissed one of them again. 6.12am there are no door supervisors outside but 11 customers stood on the pavement outside the bar. 3 customers then stood in the road and a door supervisor came back outside. 6.16am there are no door supervisors although one then came outside with the man in the red shirt, who I believed to be the manager. The man in the red shirt then started talking to a group of customers on the pavement. I then noted a door supervisor hugging a woman. I count 10 customers on the pavement and in the road. 6.21am the door supervisor goes back into the bar. 6.22am there were no door supervisors outside the bar. 6.24am the man in red shirt and a door supervisor came out into street and moved customers away from the bar. These customers were shouting as they moved away. 6.27am 2 door supervisors and the man in red shirt shout down the road towards the customers. I could not hear the words. It appeared the bar was closing. The intermittent and changing character of conversation had been very

intrusive. I agreed with Paul Eastman to revisit the following week and assess from a bedroom.

On 14<sup>th</sup> August 2009 I returned to Leona House 74 Middle Street. It was 5.08am when I drove past Entourage and I noted people stood on the pavement outside the bar. I noted amplified music was coming from the bar. Paul Eastman showed me into bedroom 3 which is the guest bedroom on the first floor, overlooking Middle Street. It was a warm, still, dry morning and the sash window was open. I would not want to sleep in the bedroom with the window closed as it was so warm. No other licensed premises in Middle Street were open. I sat on the chair adjacent to the window so I had a clear line of vision of the bar. There was a babble of voices from people stood on the pavement outside the bar. The beat of the music was also audible. 5.21am there were 4 people outside the bar on the pavement. This included two men smoking, a man in a red shirt (who I had seen on my previous visit), and one other person. A door supervisor then appeared. He was wearing the green armband worn by SASSCO staff. Four customers came out of the bar and one of them lifted up a traffic cone and shouted through it like a horn. One of the women started clapping and dancing. As the doors to the bar open and closed blasts of music were clearly audible. 5.27am there were 17 people outside on the pavement in front of Entourage. I could hear the voices of the people talking in the street. 5.27am there were 16 people on the pavement in front of the bar. I could hear a steady beat of music coming from Entourage and observed people inside dancing. 5.29am 4 people went back into the bar and as they opened the door there was a blast of music. 2 more customers then went back into the bar. I then noted a man in a white shirt speaking to one of the door supervisors. He then got into a car parked in the street and drove off. I noted one of the door supervisors writing in a book and at the same time there was a waste collection of glass. At 5.33am there were two door supervisors stood outside and two women smoking. There was a continual beat of music coming from the premises. More people came out of the bar and I noted there were now 5 people out on the pavement. There was a man in a blue T shirt speaking to one of the door supervisors. The man in the red shirt, who I believed to be the manager, also came out of the bar. There was continual noise from people talking. 5.36am it appeared to be 3 door supervisors out in the street, the man in the red shirt and 5 customers. The noise from their voices was very intrusive. The door was opening and closing as people left and entered the bar and the music would then blast out through the door. There were then 2 door supervisors and 6 customers. Even with the door closed the base beat of the music was still audible and was intrusive. The changing character in the noise from people stood on the pavement outside the bar, and from the music being played in the bar, would make it difficult to sleep. Two women then come out of the bar and sat on the ledge outside the bar. The noise I was hearing was very intrusive. 5.42am the base beat was still very intrusive even with the doors closed and would prevent sleep. 5.43am the bar door was opening and closing as customers were going in and out and I could hear the words of the music being played 'I love you'. The music was getting louder and I could hear the words of the vocals 'imagine what I could do'. Another couple came outside and sat on the ledge in front of the bar and started talking to another customer. I then heard more vocals from the music 'no matter what I do' The words from the music track being played were clearly audible. The man in the red shirt came out of the bar and as he opened the door I heard the vocals again 'no matter what I do' I noted 7 people sat on the ledge in front of the bar. The music track then changed and the music was clearly coming from Entourage. The base beat was getting louder as the door opened when people were entering and leaving. 5.48am beat still audible even with the bar door closed. 5.49am Team Waste lorry drives into street and collects glass. Even with this activity a base beat could still be heard. 5.52am 6 customers and 2 door supervisors on pavement outside bar

and the babble of their voices was audible. The customers were smoking and talking to each other. The base beat continued. 5.56am the man in the red shirt came out and as the door opened I heard the blast of a Michael Jackson song and I heard the words 'love me' and 'I love her' 5.59am the track stops and there is a constant babble of voices from customers outside. For approximately 5 minutes the door supervisors were trying to persuade 3 men to leave. 6.02am the door supervisors are still talking to them. 6.03am I recognised another Michael Jackson song and I hear the words 'she's mine'. The conversation with the door supervisors and the three men is still going on. Again I would find it difficult to sleep with this noise from voices and music. I then hear the vocals again 'She's mine'. 6.07am I noted 7 customers and 2 door supervisors stood on the pavement and the music was not audible. However, there was a continual babble of voices. 6.09am there was still no music noise but noise from customers smoking on the pavement in front of the bar. 6.11am still no music noise and more customers leaving. 6.13am 3 women who have been stood on the pavement go back into the bar. There were no people left on the pavement. 6.16 2 door supervisors and the man in the red shirt come out of the bar and then go back inside. I then leave at 6.30am. The music noise I had witnessed was a noise nuisance under the provisions of the Environmental Protection Act 1990 and a breach of the noise abatement notice. The noise from the music would prevent sleep. The noise from customers was intrusive and would prevent sleep and having regard to the licensing objective 'prevention of public nuisance' I suggest the premises licence be reviewed.

SIGNATURE .....

DATED THE 27 DAY OF August 2009

**Dates to be avoided. Delete dates of non-availability of witness.**

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