

Licensing Panel (Licensing Act 2003 Functions)

Agenda Item 98

Brighton & Hove City Council

Subject:	Application for a Variation of a Premises Licence under the Licensing Act 2003		
Premises:	HaHa Bar and Grill, 2-3 Pavilion Buildings, BN1 1EE		
Applicant:	Mitchells and Butlers Leisure Retail Ltd		
Date of Meeting:	5 January 2011		
Report of:	Head of Environmental Health and Licensing		
Contact Officer:	Name:	Sarah Cornell	Tel: (01273) 295801
	E-mail:	Sarah.Cornell@brighton-hove.gov.uk	
Wards Affected:	Regency		

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 Ha! Ha! Bar and Grill.

2. RECOMMENDATIONS:

- 2.1 To determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for Ha! Ha! Bar and Grill.

2.2.1 The application is for:

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

The application proposes:

To permit the sale of alcohol on Sundays from 11.00 (currently 12.00) and to remove all the restrictions imposed by para 6 (6) and 6 (8) Schedule 8, Licensing Act 2003 where indicated except for the restriction/permission to remain open for licensable activities from the end of permitted hours on New Year's Eve to their commencement the following day.

2.2.2 Part P of the application is detailed at Appendix A.

2.3 Summary table of existing and proposed activities

	Existing	Proposed
B Films	<p>Indoors</p> <p>Monday - Wednesday: 11.00 - 00.30</p> <p>Thursday - Saturday: 11.00 - 01.30</p> <p>Sunday: 2.00 - 00.30</p> <p>PLUS: A further hour on Friday, Saturday, Sunday and Monday of Easter Bank Holiday, both May Bank Holidays, August Bank Holiday and on Christmas Eve, Boxing Day and New Years Day.</p>	As Existing
F Recorded Music	<p>Indoors</p> <p>Monday - Wednesday: 11.00 - 00.30</p> <p>Thursday - Saturday: 11.00 - 01.30</p> <p>Sunday: 12.00 - 00.30</p> <p>PLUS: A further hour on Friday, Saturday, Sunday and Monday of Easter Bank Holiday, both May Bank Holidays, August Bank Holiday and on Christmas Eve, Boxing Day and New Years Day.</p>	As Existing

J Provision of facilities for dancing	Indoors Monday - Wednesday: 11.00 - 00.30 Thursday - Saturday: 11.00 - 01.30 Sunday: 12.00 - 00.30 PLUS: A further hour on Friday, Saturday, Sunday and Monday of Easter Bank Holiday, both May Bank Holidays, August Bank Holiday and on Christmas Eve, Boxing Day and New Years Day	As Existing
L Late Night Refreshment	Indoors Monday - Wednesday: 23.00 - 24.00 Thursday - Saturday: 23.00 - 01.00 Sunday: 23.00 - 24.00. PLUS: A further hour on Friday, Saturday, Sunday and Monday of Easter Bank Holiday, both May Bank Holidays, August Bank Holiday and on Christmas Eve, Boxing Day and New Years Day	As Existing

M Supply of Alcohol	On and Off the Premises Monday - Wednesday: 11.00 - 24.00 Thursday - Saturday: 11.00 - 01.00 Sunday: 12.00 - 24.00 PLUS: A further hour on Friday, Saturday, Sunday and Monday of Easter Bank Holiday, both May Bank Holidays, August Bank Holiday and on Christmas Eve, Boxing Day and New Years Day	On and Off the Premises Sunday: 11.00 - 24.00 All other days as existing
O Hours premises are open to public	Monday - Wednesday: 07.00 - 00.30 Thursday - Saturday: 07.00 - 01.30 Sunday: 07.00 - 00.30 For a further hour on Friday, Saturday, Sunday and Monday of Easter Bank Holiday, both May Bank Holidays. August Bank Holiday and on Christmas Eve, Boxing Day and New Years Day	
P Conditions removed as a consequence of the proposed Variation	All Standard/Special Conditions/Rules of Management converted from former Public Entertainment Licence and former Justices' Licence including the restriction on Children in the premises from The Licensing Act 1964 to be removed.	

2.4 Existing licence attached at Appendix B

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 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 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 Two representations were received. They were received from Sussex Police and Trading Standards.

- 3.2.3 Representations received had concerns relating to Prevention of Crime and Disorder and Protection of Children from Harm.

- 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. CONSULTATION

Commentary on licensing policy

- 4.1 The following extracts from Brighton & Hove 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 focussed on matters which are in 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
- 1.15 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act, and the conditions attached to licences, certificates and permissions will be focused on matters which are within the control of the licensee and will centre on the premises themselves and their immediate vicinity. When considering these terms and conditions the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

In respect of the prevention of crime and disorder

- 2.2 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority recommends 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 staff 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.
- 2.3 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.
- 2.4 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.

- 2.4.1 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.
- 2.4.2 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. This special policy was adopted for inclusion within the statement of licensing policy by Council on 13 March 2008.
- 2.4.3 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 of the Statement of Licensing Policy (SoLP).
- 2.4.4 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 normally 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.
- 2.4.5 Any variation application 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.
- 2.4.6 This special policy also applies to all new premises licences and club premises certificates, for example pubs, off-licences, restaurants and take-away establishments.
- 2.4.7 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.
- 2.4.8 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 it is justified in 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 not.

2.4.9 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.

2.4.14 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. If it is found that the above problems are receding the Special Policy may be reviewed with a view to revising the areas' boundaries.

2.5.1 Diversity of premises

This attempts to ensure that there is a mix of the different types of licensed premises, particularly in areas where there is a high density of such premises. It will provide resilience against changing trends and attract a more diverse range of customers from different age groups, different communities of interest and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This in turn may 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 encourages mixed use venues, varying hours of business and a wider age balance.

2.5.2 Café Bars

The licensing authority may be prepared to look favourably upon an application for the grant of a licence, subject to the following conditions that will prevent the premises becoming a public house.

- The sale of intoxicating liquor and other beverages shall be waiter /waitress service for consumption by persons seated at tables.
- Substantial food shall be available at all times.

Licensees should be aware that breach of these conditions is likely to lead to proceedings for revocation of the licence.

2.5.3 Restaurants with outside service

The licensing authority will also consider applications from restaurants that request to serve alcohol to areas adjacent to or immediately outside their premises. In addition to the above conditions for café bars, the licensing authority will require evidence that the applicants have an agreement with the local authority to use the area as defined on a plan provided. The following condition will also apply: -

The sale and supply of alcohol for consumption off the premises shall be restricted to an area licensed by the Local Authority for use of the public highway as shown on the plan deposited and such area shall be defined by a physical barrier acceptable to the licensing authority.

2.5.5 Care, control and supervision of premises

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 will suggest crime prevention measures in relation to, for example, the internal layout of the premises, close circuit television, help points, lighting and security staff. The Police may ask for conditions which support such measures to be imposed when planning or licensing applications are granted, e.g. type of licence, capacity, opening time restrictions.

- 2.8 Enforcement issues will be considered in the light of any relevant enforcement policies and close links will be sought between all enforcing authorities, e.g. through the use of intelligence sharing and strategy groups. Such protocols may lead to the targeting of agreed high risk and problem premises whilst permitting a lighter touch approach in respect of well run premises.

In respect of the protection of children from harm

- 5.1 Licensees should note the concern of the authority that drink related disorder frequently involves under 18's. To prevent illegal purchases of alcohol by such persons, the committee recommend that all licensees should work with a suitable 'proof of age' scheme and ensure that appropriate identification is requested prior to entry and when requesting alcohol, where appropriate. Appropriate forms of identification are currently considered to be those recommended by police, trading standards officers and their partners in the licensing strategy group.
- 5.2 It is the committee's expectation that all staff responsible for the sale of intoxicating liquor receive information and advice on the licensing laws relating to children and young persons in licensed premises. Licensed premises staff are required to take reasonable steps to prevent under age sales. The licensing authority will not seek to limit the access of children to any premises

unless it is necessary for the prevention of physical, moral or psychological harm to them.

- 5.4 The licensing authority will not seek to require that access to any premises is given to children at all times – under normal circumstances this will be left to the discretion of the licensee. The following areas give rise to concern in respect of children, who will normally be excluded from premises:-

- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is commonly provided.
- where premises are used primarily or exclusively for the sale and consumption of alcohol and there is little or no seating for patrons

Options may include:-

- limitations on the hours when children may be present;
- age limitations (below 18);
- limitations or exclusions when certain activities are taking place;
- requirements for an accompanying adult;
- full exclusion of people under 18.

- 5.5 Licensees of premises giving film exhibitions will be expected to include in their operating schedules arrangements for restricting children from viewing age restricted films. Such premises will be subject to a mandatory condition requiring that access will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification, or in specific cases where such certificates have not been granted, the licensing authority. The licensing authority does not intend to adopt its own system of film classification.

- 5.6 Where children are expected to attend a public entertainment, appropriate adult supervision will be required to control the access and egress of children and to protect them from harm. This will normally be an adult member of staff for every 100 children. Where the entertainment is music and dancing, 2 persons, licensed by the Security Industry Authority (door supervisors) should be employed for every 100 children. Nothing in this policy shall seek to override child supervision requirements contained in other legislation or regulations. The licensing authority recognises the Children, Families and Schools section as being competent to advise on matters relating to the protection of children from harm.

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, 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.
- 6.7 This policy avoids duplication with other regulatory regimes wherever possible.

In respect of Live music, Dancing and Theatre

- 7.1 This policy recognises the need to encourage live music, dancing and theatre for the wider cultural benefits of the community generally. In addressing such issues the potential for limited disturbance in neighbourhoods will always be carefully balanced with these wider benefits, particularly for children. The impact of licensing on regulated entertainment, particularly live music and dancing, will be monitored. Where indications are that such events are being deterred by licensing requirements, the policy will be revisited with a view to investigating how such situations might be reversed.
- 7.2 The Licensing Committee represents the general interests of a community. In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives. The Licensing authority is aware of the need to avoid measures which deter live music, dancing and theatre - such as imposing indirect costs out of proportion to the income of the licence holder and to the risks presented. Only necessary, proportionate and reasonable licensing conditions should impose any restrictions on such events.

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: 15.12.2010

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: 15.12.2010

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 – Part A of Premises Licence
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

Please describe any additional steps that you intend to take in order to promote the four licensing objectives if the proposed variation is granted:

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

The application is made to bring forward the commencement hour for the sale of alcohol on Sundays from 12 noon to 11:00 and remove the former embedded restrictions from the public entertainment and justices licences.

No other changes to the hours are proposed nor to the existing permitted licensable activities.

No further steps have been identified as being necessary to promote the licensing objectives.

b) **The prevention of crime and disorder**

as above

No further steps have been identified as being necessary to promote the licensing objectives.

c) **Public safety**

Matters dealing with public safety from the former public entertainment licence are now controlled by the 2005 Fire Safety Order and other Health and Safety legislation requiring the applicant to their responsibility for carrying out risk assessments generally.

No further steps have been identified as being necessary to promote the licensing objectives.

d) **The prevention of public nuisance**

As above, no further steps have been identified as being necessary to promote the licensing objectives.

e) **The protection of children from harm**

The protection of children from harm is now controlled by the general position of the Licensing Act 2003 whereby children under 16 must be accompanied by an adult. Moreover, Mitchells and Butlers operate the challenge 21 policy in both this and all their premises.

In the above circumstances, no further steps have been identified as being necessary to promote the licensing objectives.

APPENDIX B

Schedule 12

Part A

Regulation 33, 34

Premises Licence Brighton and Hove City Council

Premises Licence Number

1445/3/2010/02050/LAPRET

Part 1 – Premises Details

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

Ha! Ha! Bar And Grill
2 - 3 Pavilion Buildings
Brighton
BN1 1EE

Telephone number 01273 737080

Licensable activities authorised by the licence

Exhibition of a Film	Performance of Recorded Music	Dancing
Late Night Refreshment	Sale by Retail of Alcohol	

Times the licence authorises the carrying out of licensable activities:

Exhibition of a Film - Indoors

To permit amplified music video, sport, entertainment programmes and any entertainment of a like kind (nothing of an adult nature). Primarily this is to allow the continued use of the playing of music videos and company information on plasma screens within the bar.

Monday - Wednesday: 11.00 - 00.30

Thursday - Saturday: 11.00 - 01.30

Sunday: 12.00 - 00.30.

PLUS: A further hour on Friday, Saturday, Sunday and Monday of Easter Bank Holiday, both May Bank Holidays, August Bank Holiday and on Christmas Eve, Boxing Day and New Years Day.

Performance of Recorded Music - Indoors

Amplified music via in house system in conjunction with the playing of music videos and on occasion it is intended to have a DJ.

Monday - Wednesday: 11.00 - 00.30

Thursday - Saturday: 11.00 - 01.30

Sunday: 12.00 - 00.30.

PLUS: A further hour on Friday, Saturday, Sunday and Monday of Easter Bank Holiday, both May Bank Holidays, August Bank Holiday and on Christmas Eve, Boxing Day and New Years Day.

Dancing - Indoors

Monday - Wednesday: 11.00 - 00.30

Thursday - Saturday: 11.00 - 01.30

Sunday: 12.00 - 00.30.

PLUS: A further hour on Friday, Saturday, Sunday and Monday of Easter Bank Holiday, both May Bank Holidays, August Bank Holiday and on Christmas Eve, Boxing Day and New Years Day.

Late Night Refreshment - Indoors

For the provision of hot food and beverages in conjunction with the sale of alcohol.

Monday - Wednesday: 23.00 - 24.00

Thursday - Saturday: 23.00 - 01.00

Sunday: 23.00 - 24.00.

PLUS: A further hour on Friday, Saturday, Sunday and Monday of Easter Bank Holiday, both May Bank Holidays, August Bank Holiday and on Christmas Eve, Boxing Day and New Years Day.

Sale by Retail of Alcohol

Monday - Wednesday: 11.00 - 24.00

Thursday - Saturday: 11.00 - 01.00

Sunday: 12.00 - 24.00.

PLUS: A further hour on Friday, Saturday, Sunday and Monday of Easter Bank Holiday,

both May Bank Holidays, August Bank Holiday and on Christmas Eve, Boxing Day and New Years Day.

The opening hours of the premises

Monday - Wednesday: 07.00 - 00.30

Thursday - Saturday: 07.00 - 01.30

Sunday: 07.00 - 00.30

For a further hour on Friday, Saturday, Sunday and Monday of Easter Bank Holiday, both May Bank Holidays. August Bank Holiday and on Christmas Eve, Boxing Day and New Years 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

Mitchells & Butlers Leisure Retail Ltd

27 Fleet Street

Birmingham

West Midlands

B3 1JP

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

Registered Business Number 24542

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

Mr Reeshi Patel

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

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.

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.

S 20; mandatory condition: exhibition of films

- the admission of children is to be restricted in accordance with the following
 - (a) where the film classification body is specified in the licence, unless subsection (3)(b) of S 20 applies, admission of children must be restricted in accordance with any recommendation made by that body
 - (b) where the film classification body is not specified, or [(S20 (3)(b))] the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority

S 21; mandatory condition: door supervision

- where a premises licence includes a condition relating to security activity, the licence must include a condition that each individual must be licensed by the Security Industry Authority (there are exemptions re theatre and films and clubs)

Embedded Conditions:

On Licences

1. Permitted Hours

Alcohol shall not be sold or supplied except during permitted hours.

- 1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10 a.m. to 11 p.m.
- 2) On Sundays, other than Christmas Day or New Year's Eve, 12 noon to 10.30 p.m.
- 3) On Good Friday, 12 noon to 10.30 p.m.

- 4) On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- 5) On New Year's Eve, except on a Sunday, 10 a.m. to 11 p.m.
- 6) On New Year's Eve on a Sunday, 12 noon to 10.30 p.m.
- 7) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Restrictions

The above restrictions do not prohibit:

- a) during the first twenty minutes after the above hours the consumption of alcohol on the premises;
- b) during the first twenty minutes after the above hours, the taking of alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- c) during the first thirty minutes after the above hours the consumption of alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- d) consumption of alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
- e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of alcohol so ordered;
- f) the sale of alcohol to a trader or club for the purposes of the trade or club;
- g) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- h) the taking of alcohol from the premises by a person residing there; or
- i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
- j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of alcohol so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

Licence Conditions/Undertakings Attached to Justices 'On' Licence issued on 4th May 2005

1. CCTV or appropriate recording equipment to be installed internally/externally following consultation with the police.
2. No extension of permitted hours other than by way of usual LVA bank holiday extensions.
3. Maximum capacity of 200 people including staff.
4. A minimum of 145 seats to be available at all times.
5. Substantial food to be available at all times the premises are open.
6. Waiter/waitress service to be available at all times.
7. At least one person to be on duty who has undergone the local authority registered door keepers course to be on duty on Thursday, Friday & Saturday after 7.00pm.
8. No AWP's to be applied for.
9. The external seating area to be clearly defined by way of a ballustrade or similar.
10. Patrons seated in the external part to be served by waiter/waitress service only.

2. Premises with no children's certificate-

No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- a) He is the child of the holder of the premises licence.
- b) He resides in the premises, but is not employed there.
- c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of alcohol. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

Source Section 168, 171 and 201 Licensing Act 1964

4. Late Night Refreshment

The Licence may also provide and permit the consumption of late night refreshment for a period of 30 minutes after the permitted hours set out above, and on New Years Eve until 5am on New Years Day.

5. Recorded Music

Premises licensed for the sale and supply of alcohol may provide, at any time, regulated entertainment by the reproduction of wireless, including television broadcast and of public entertainment by way of music and singing only which is provided solely by the reproduction of recorded sound.

Source Section 182 Licensing Act 1964

Special Hours Certificates

Where a special hours certificate is in force on all or certain days, replace the permitted hours condition for those days with the following:

1. Subject to the following paragraphs, the permitted hours on weekdays shall extend until two o'clock in the morning following *[or, if an earlier hour is specified in the special hours certificate, that hour]*, except that—

a) the permitted hours shall end at midnight . . . on any day on which music and dancing is not (*or, in the case of casino premises, gaming facilities are not*) provided after midnight; and

b) on any day that music and dancing end (*or, in the case of casino premises, gaming ends*) between midnight and two o'clock in the morning, the permitted hours shall end when the music and dancing end or, as the case may be, when the gaming ends;

2. In relation to the morning on which summer time begins, paragraph (1) of this condition shall have effect—

a) with the substitution of references to three o'clock in the morning for references to two o'clock in the morning *[or one hour following the hour actually specified in the certificate where the certificate currently requires closure between 1 a.m. and 2 a.m.]*

3. Except on Sundays immediately before bank holidays, the permitted hours on Sundays shall extend until thirty minutes past midnight in the morning following *[or, if an earlier hour is specified in the special hours certificate, that hour]*, except that—

a) the permitted hours shall end at midnight on any Sunday on which music and dancing is not (*or, in the case of casino premises, gaming facilities are not*) provided after midnight;

b) where music and dancing end (*or, in the case of casino premises, gaming ends*) between midnight on any Sunday and thirty minutes past midnight, the permitted hours on that Sunday shall end when the music and dancing end or, as the case may be, when the gaming ends.

4. On Sundays immediately before bank holidays, the permitted hours shall extend until 2 a.m. in the morning following, except that—

a) the permitted hours shall end at midnight on any Sunday on which music and dancing is not (*or, in the case of casino premises, gaming facilities are not*) provided after midnight;

b) where music and dancing end (*or, in the case of casino premises, gaming ends*) between midnight on any Sunday and 2 a.m., the permitted hours on that Sunday shall end when the music and dancing end or, as the case may be, when the gaming ends.

Schedule to Special Hours Certificate

For the whole of the premises, Thursday, Friday and Saturday until 1am.

Supper Hours Certificate

Where a supper hours certificate is in place under s. 68, add (depending on whether one or both of the extensions in square brackets have been granted):

"Alcohol may be sold or supplied [*for one hour following the end of permitted hours and*] [*on Christmas day, between 3 p.m. and 7 p.m.*] to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by such a person in that part of the premises as an ancillary to his meal. For other purposes or in other parts of the premises the permitted hours shall continue to apply."

Source Section 68 Licensing Act 1964

Public Entertainment

Public music, dancing and any other public entertainment of a like kind is subject to the conditions and restrictions applied herein:

- 1) Times: Monday to Wednesday 11.00am – 11.00pm
Thursday to Saturday 11.00am – 1.00am

Sunday 12.00pm to 10.30 pm

- 2) The number of persons permitted on the licensed premises at any one time shall not exceed: - 200
- 3) Standard Conditions as detailed in the document below.
- 4) Special Conditions
 - a) On the nights that the public entertainment licence is effective, a minimum of 2 Security Industry Authority registered door supervisors shall operate from the premises from 20.00 hours until close.
 - b) CCTV monitors and recording equipment shall be installed, operated, upgraded and maintained internally and externally following consultation with Sussex Police to a standard specification.
 - c) As far as practicable, shatterproof drinking receptacles only shall be used internally and externally.
 - d) No admissions after 12 midnight

Local Government (Miscellaneous Provisions) Act 1982

Variations to Embedded Conditions:

1. Removal of the restriction of the supper hours certificate requiring a defined area to be identified and consumption of alcohol to be ancillary to a meal.
2. Changes to the permitted hours.

Annex 2 - Conditions consistent with the Operating Schedule:

For the prevention of crime and disorder:

1. CCTV cameras shall be maintained in proper working order.
2. CCTV cameras CCTV recordings shall be retained for 31 days.

- Door Supervisors are provided on Thursday, Friday & Saturday evenings.
- The manager will be an active member of the Local Pubwatch scheme.
- There will be no irresponsible drink promotions.

For public safety:

None

For the prevention of public nuisance:

- The Licensee must ensure that people on or leaving the premises conduct themselves in an orderly manner at all times and do not in any way cause annoyance to residents and people passing by the premises.
- The licensee shall ensure that noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties.

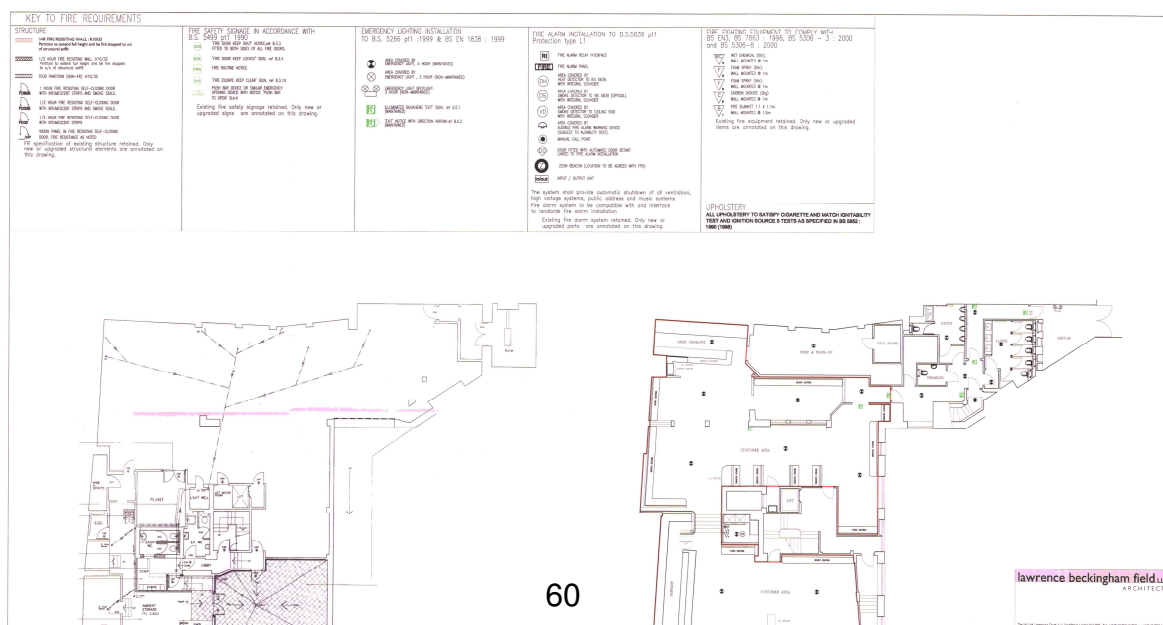
For the protection of children from harm:

- There is to be no adult entertainment at premises.
- Only a valid photographic driving licence or passport is accepted as proof of age.
- No gaming machines are permitted on the premises.
- A no smoking area is to be provided on the premises.

Annex 3 - Conditions Attached after a hearing of a Licensing Panel

N/A

Annex 4 – Plans



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

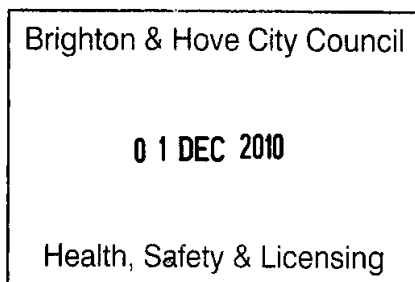
Items to which positive consideration would be given -

- 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



(A)

VARIATION
CD
CH M88

Brighton & Hove Licensing Unit
Police Station
Holland Road
HOVE
BN3 1JY

Tel: 01273 66 59 43
Fax: 01273 66 55 24

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

30th November 2010

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

Dear Sirs,

**REPRESENTATION RE: VARIATION APPLICATION FOR HA HA BAR & GRILL,
2-3 PAVILLION BUILDINGS, BRIGHTON, BN1 1EE, UNDER THE LICENSING
ACT 2003.**

Sussex Police wish to make representations in respect of this variation application on the grounds of the protection of children from harm and the prevention of crime and disorder.

This variation application seeks to increase the hours for the supply of alcohol on Sundays by one hour, starting at 11:00 instead of 12:00 as per the existing licence. Sussex Police have no objections to this minor increase in hours during the daytime despite the fact that the premises is situated within the cumulative impact zone.

However we have concerns about the existing conditions on the licence, which are so few and out of date that they do not fully promote the four licensing objectives given the size and location of the premises.

The conditions that we now request are as follows:

The prevention of crime and disorder

Digital CCTV and appropriate recording equipment to be installed, operated and maintained throughout the premises externally and internally to cover all public areas with sufficient numbers of cameras as agreed with Sussex Police. CCTV footage will be stored for a minimum of 28 days, and the management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime. The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy. The management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk for the police without difficulty or delay.

The provision of SIA registered door supervisors will be on a documented risk assessment basis.

The protection of children from harm

The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The only forms of ID that will be accepted are passports, driving licences with a photograph or Portman Group, Citizen Card or Validate proof of age cards bearing the 'PASS' mark hologram. The list of approved forms of ID may be amended or revised with the prior written agreement of Sussex Police and the Licensing Authority without the need to amend the licence or conditions attaching to it.

Suitable and sufficient signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises.

The premises licence holder will ensure that all staff members engaged in selling alcohol on the premises shall receive induction training as to the lawful selling of age restricted products prior to the selling of such products, and verbal reinforcement/refresher training thereafter at intervals of no less than 8 weeks, with the date and time of the verbal reinforcement/refresher training documented.

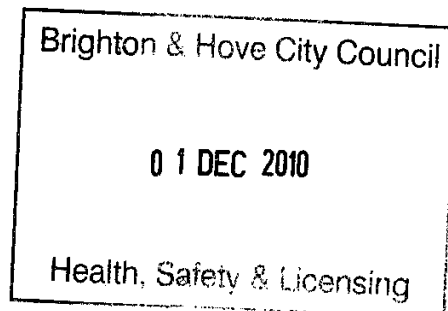
All such training shall be fully documented and recorded. All training records shall be made available to the Sussex police and Brighton and Hove Council's Trading standards Service upon request

Yours faithfully,

Graham Bartlett
Chief Superintendent
Divisional Commander
Brighton & Hove Division

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

VALID
CH MS



Tel No: (01273) 292497
Fax No: (01273) 292524
E Mail: Catriona.Macbeth@brighton-hove.gov.uk
Our Ref: CM/JP

30 November 2010

Dear Sirs

Application to vary a Premises Licence – Ha Ha Bar and Grill, 2-3 Pavilion Buildings, Brighton BN1 1EE

I can confirm that Trading Standards are concerned with this application as it is considered that it fails to meet the Licensing Objective of protecting children from harm.

You should be aware that there is a continuing problem in Brighton and Hove with children drinking alcohol underage with the corresponding health issues and youth disorder. The premises in question are in an area where alcohol related youth disorder is a problem.

There are already other premises in the vicinity which are operating Challenge 25.

The applicant states in their application that they operate Challenge 21 in these premises and also all of their other premises; there is no information provided to indicate that the applicant has considered and addressed the specific problems faced by these unique premises as a result of its location in an area with alcohol related youth disorder. It is for this reason that it is considered that this application fails to meet the Licensing Objective of protecting children from harm.

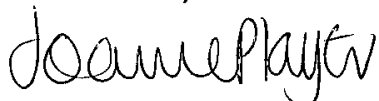
It is for these reasons that Trading Standards requests that the following condition be placed on the premises licence.

For the protection of children from harm:

The premises will adopt a policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The only ID that will be accepted are valid passports, photographic driving licenses or Proof of Age cards bearing the 'PASS' mark hologram. The list of approved Identification may be amended or revised with the prior written agreement of Sussex Police and the Licensing Authority without the need to amend the actual licence.

It is considered that this is necessary to protect children from harm.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Joanne Player'.

Jo Player
Acting Head of Trading Standards

APPENDIX G

