



**Brighton & Hove
City Council**

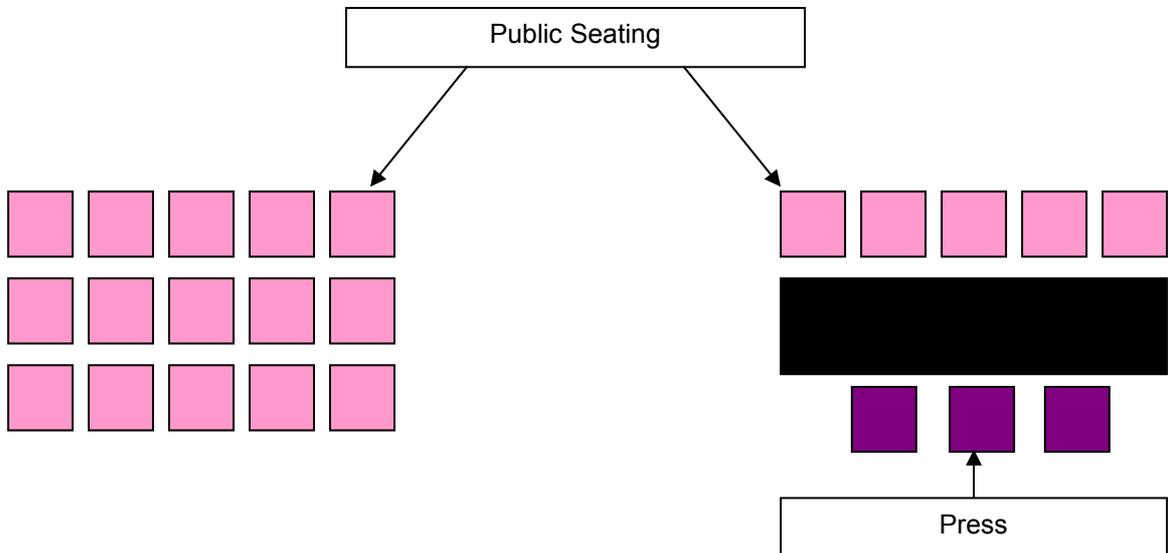
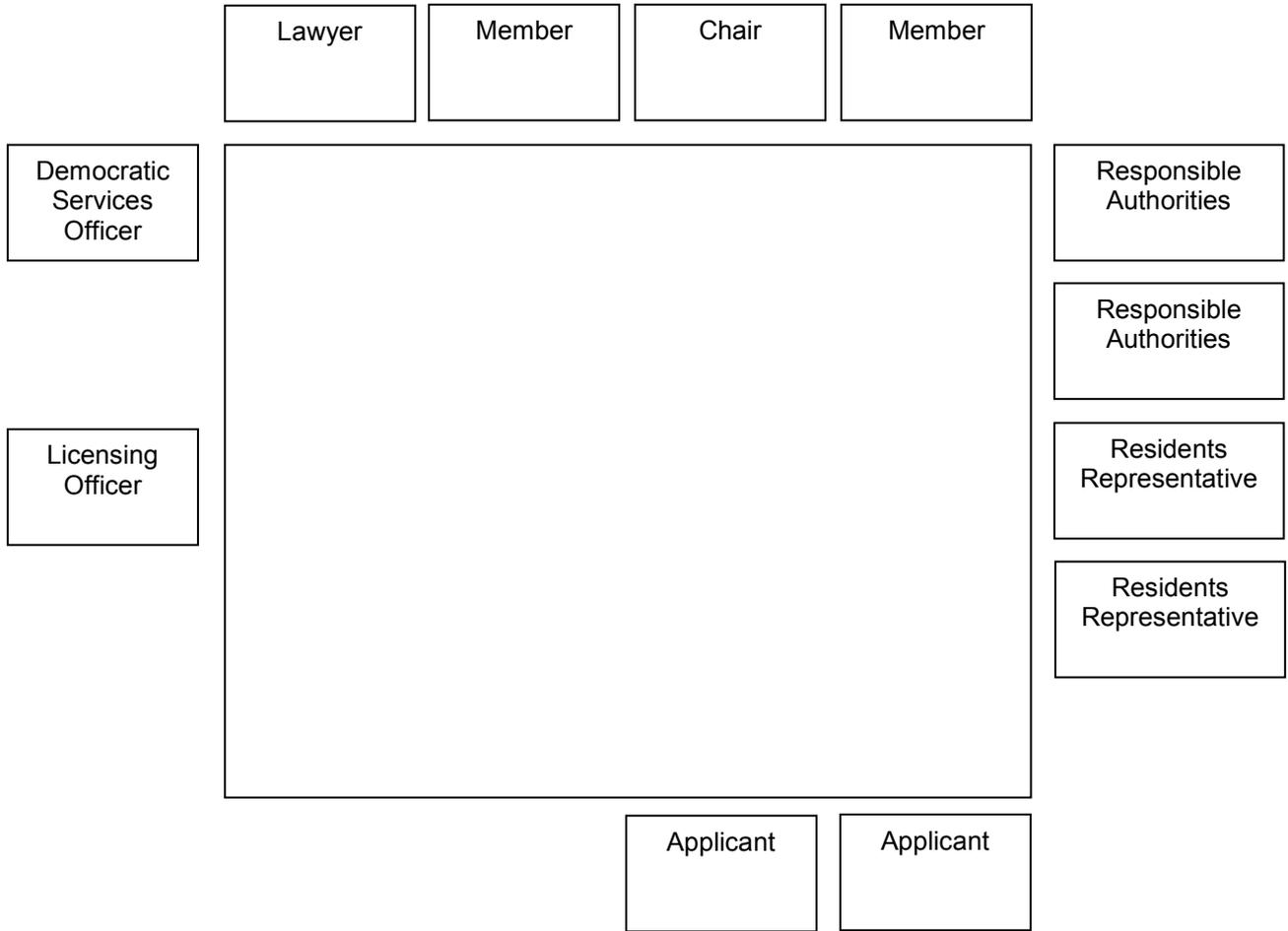
Licensing Panel

(Non Licensing Act 2003 Functions)

Title:	Licensing Panel (Non Licensing Act 2003 Functions)
Date:	20 July 2015
Time:	10.00am
Venue	Committee Room 1, Brighton Town Hall
Members:	Councillors: Marsh, Simson and Wares
Contact:	Ross Keatley Democratic Services Officer 01273 29-1064 ross.keatley@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.
	<p>FIRE / EMERGENCY EVACUATION PROCEDURE</p> <p>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:</p> <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



AGENDA

1 TO APPOINT A CHAIR FOR THE MEETING

2 PROCEDURAL BUSINESS

(a) **Declaration of Substitutes:** Where Councillors are unable to attend a meeting, a substitute Member from the Licensing Committee may attend, speak and vote in their place for that meeting.

(b) **Declarations of Interest:**

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) **Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

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

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

3 HIGHWAY LICENSING APPEAL, MARINE TAVERN, 13 BROAD STREET, BRIGHTON

1 - 20

Report of the Executive Director of Environment, Development and Housing (copy attached)

Contact Officer: David Fisher
Ward Affected: Queen's Park

Tel: 292065

4 HIGHWAY LICENSING APPEAL, BOTTOMS REST, 16 LOWER MARKET STREET, HOVE

21 - 48

Report of the Executive Director of Environment Development and Housing (copy attached)

Contact Officer: David Fisher

Tel: 292065

Ward Affected: Brunswick & Adelaide

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

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 29-1064, email ross.keatley@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Friday, 10 July 2015

window or door of said premises or in clear visual range of CCTV camera(s) monitored from within the licensed premises restricting advertising boards to within 5m of the premises.”

- 3.5 In 2010 an Overview and Scrutiny Street Access report also recommended that all items be placed within 5 meters of the premises, this recommendation has since become part of the standard licencing conditions.

4. CONSULTATION

- 4.1 An equalities impact assessment was carried out during the policy review in 2009 which involved consultation with a wide range of relevant groups, traders and local residents.
- 4.2 Full consultation was also carried out by the Overview and Scrutiny Street Access Panel including a public invitation to submit evidence and 3 public meetings where individuals and representatives of various organisations or businesses were invited to give evidence. (documents in members room)

5. FINANCIAL & OTHER IMPLICATIONS

Financial Implications:

- 5.1 The cost to the council of processing this licence application and potential income is met from within the existing Highways Enforcement Team revenue budget within the Transport revenue budget. The annual fee for the application is expected to be £71.00er annum.

Finance Officer Consulted: Steven Bedford

Date: 12/06/15

Legal Implications:

- 5.2 Section 130 of the Highways Act 1980 imposes a duty on the Council as highway authority to assert and protect the rights of the public to the use and enjoyment of any highway within its area and so far as possible to prevent the obstruction of the highway. However, the highway authority is empowered to license the placing of certain objects on the highway, e.g. A boards under the provisions of Part VII A of the 1980, although in doing so it must have regard to the provisions, including the Council's duties, of the Equality Act 2010. The panel must hear the application and determine this application having regard to its policy, legislation and the circumstances of this application.

Equalities Implications:

- 5.3 The council seeks to ensure that the public highway is used in a manner that maximises the benefit to the most number of users. However in the busiest areas of the city competing interests can come into conflict. It is the council's responsibility to manage these interests and to ensure equality of access particularly for those with mobility issues.

Sustainability Implications:

- 5.4 There are no sustainability issues identified.

Risk and Opportunity Management Implications:

- 5.5 The council seeks to ensure that access and risk issues are reduced by controlling items to be placed on the public highway.

Corporate / Citywide Implications:

- 5.7 Each site is individually assessed so does not necessarily set a precedent but may be of relevance to any future applications from other businesses.

SUPPORTING DOCUMENTATION

Appendices:

1. Highway licence application and standard conditions
2. Control of placements policy
3. Photos and plans of site

Documents In Members' Rooms

Street access scrutiny review and recommendations

Background Documents

None



**Brighton & Hove
City Council**

**Application for permission to place an Advertising Board upon the Public Highway
(Highways Act 1980) and
The Local Government (Miscellaneous Provisions) Act 1982
Permission valid until 30th April 2016**

TitleMR ... **Name of Applicant (in full)**LEE THOMAS
COCKSHOTT.....

Name of business for which permission is required ...THE MARINE TAVERN
.....

Address: (This is the address to which all correspondence will be sent unless otherwise indicated by the applicant.)

13 BROAD STREET
BRIGHTON.....

Post CodeBN2 1TJ..... Tel.
No.....01273905578.....

Email
.....THEMARINETAVERN@GMAIL.COM.....

Correspondence address if different from above:

Post Code Tel. No.

I hereby apply for a licence to place an Advertising Board upon the Public Highway as detailed above. I confirm that I have read, understand and agree to abide by the conditions enclosed and any other special conditions. I understand that the licence will expire on 30th April following this application. Payment for the approval and issuing processes is enclosed/has been made.

Name (block capitals).....LEE COCKSHOTT..... **Position (block capitals):**
.....OWNER.....

Signed:LEE COCKSHOTT..... **Date:**
.....10/06/15.....

For Council Office use only – please do not write in the space below

BRIGHTON AND HOVE CITY COUNCIL acting by their Executive Director Environment Development & Housing in pursuance of the above enactments hereby grant permission for the placing of an Advertising Board on part of the paved Public Highway outside the premises as described above or attached.

Signed: **Name:**

For the Executive Director Environment, Development & Housing,
Brighton & Hove City Council

Date

Special Conditions:

[pto]

Please describe and sketch the proposed placement. (Use a separate sheet of paper if necessary).

BOARD CAN NOT BE WITHIN 5 METRES OF THE BUILDING DUE TO SMALL PATH WAY, THE NEAREST AND SAFEST WAY IS 12 METRES AWAY. THE STREET HAS NO OTHER BUSINESS ON THE ROAD, SO A CLUSTER WOULD NOT APPEAR FROM OTHER BUSINESSES. THE BOARD WOULD BE IN SIGHT ON OUR FRONT DOOR.

Please provide names and address of the owners or other tenants if you are not the owner/sole tenant of the property.

(use a separate sheet of paper if necessary)

Incomplete or inaccurate applications cannot be processed.

Please note that payment must accompany this application

Advertising boards only (one board per site):

1. New applications £102 for the first year to 30th April 2016
2. Renewals £71.00 per year.

HOW TO PAY

Cheque

- Please make cheques payable to Brighton & Hove City Council
- Write the name of the business on the reverse, plus the code EVH031/LG132

Credit/Debit Card

- Phone (01273) 292071 to make a card payment. We can accept Visa, MasterCard and American Express. You will be given a payment reference/transaction number, which you should write in the box top left on the application form.

Website

Go to www.brighton-hove.gov.uk, click "Pay Online", then Licences and select "Advertising Boards" from the drop-down menu.

Please enter the name of the business in the "Reference" window. Also enclose a copy of the receipt with your application form, or enter the receipt number in the box top left on the application form.

If you have any queries, please phone 01273 292071

Please return this form to:

**The Highway Enforcement Manager, Brighton & Hove City Council, Highway Enforcement,
2nd Floor Open Plan Office, King's House, Grand Avenue, Hove BN3 2LS**

PLEASE KEEP FOR YOUR REFERENCE



Licence Conditions 2014-2015

ADVERTISING BOARDS

The following conditions will be introduced to apply to all highway licences issued.

1. Terms:

- 1.1 The term "licence" used below refers to any Highway Permission issued by the Highway Enforcement Team.
- 1.2 A "licensee" is deemed to be the body or individual to whom the licence has been issued.
- 1.3 A "licensed area" is that area of public highway covered by the licence.

2. Legal Issues:

- 2.1 This licence is not transferable.
- 2.2 Sub-letting of the highway is forbidden. A frontager who is a licensee may, with the advance written permission of the council, permit a suitable third party (i.e. a party the council would consider to be an appropriate licensee themselves) to display items within a relevant licensed area, but there should be no financial transaction associated with such an arrangement. Any third party must meet and comply with all licence conditions, including the holding of Public Liability Insurance (see below). Responsibility for breaches of licence conditions will lie with the licensee.
- 2.3 The licensee agrees to indemnify the council against any claims in respect of injury, damage or loss arising out of the grant of the licence. Public Liability Insurance cover of at least one million pounds must be carried for the duration of the licence. Evidence for this cover must be produced on demand.
- 2.4 The licence may be suspended or revoked and/or the licensee required to temporarily remove the objects by the council for any legally defensible reason. The licensee shall not be entitled to any compensation for loss of trade or business as a result.
- 2.5 If deemed necessary the council may alter licence conditions at any time. The licensee shall not be entitled to any compensation for loss of trade or business as a result.
- 2.6 Where necessary, the council may place time limits to restrict the use of licensed areas to permitted hours. In general, these restrictions will apply to premises with alcohol licences and will not exceed the hours set by the terms of such licences.
- 2.7 Licences are valid for a maximum of 12 months and expire at 24:00 hrs. on the first 30th of April following the date of issue. Licences are subject to an annual review. Payment of licence fees is a condition of the licence.

- 2.8 Licences only relate to the placing of objects upon the highway. It is the responsibility of the licensee to obtain all other consents required in connection with the proposed extension of their business onto the highway including, where appropriate, any amendment to their existing liquor licence.
- 2.9 It is a condition of Highway Licences that all consents and permissions and all health & safety, environmental health or other legal provisions or measures required by Brighton & Hove City Council or other legal authorities are obtained and adhered to. Proven failure to comply with legislation and/or the reasonable and legitimate instructions of an authorised officer of the Council, Her Majesty's Health & Safety Executive or the Police may be considered a breach of the conditions governing the licence.
3. Advertising boards:
- 3.1 No more than one advertising board per licensed premises may be permitted on the Public Highway. The total surface areas of all advertising boards whether on the highway or on private land or decking or on any combination of the same may not at any time exceed the limits for such advertising under Planning Regulations (a total area of 4.6 square metres).
- 3.2 Licensed advertising boards shall be between 0.75m and 1.2m high and between 0.5m and 1.1m wide only. Larger or smaller boards will not be permitted.
- 3.3 Feather flags or signs are not permitted.
- 3.4 Advertising boards must not have anything attached to them – for example, balloons or flags. They must be in good condition; advertising boards that are broken or frames not displaying an advertising message will be removed.
4. General:
- 4.1 The licensee must clearly display on site a Display Licence provided by the council. This should be placed in a window, glass door or menu stand of the licensed premises clearly be visible and legible from the highway.
- 4.2 Anything left upon the highway outside business hours or the hours stated in the licence conditions, or any item found chained or tied to any other object, street furniture or building without prior written permission, may be removed and impounded without further warning.
- 4.3 The improper parking of vehicles by staff or persons associated with the licensed site (including delivery vehicles) will be considered a breach of the licence. This is of particular importance within those areas where vehicle access is restricted and in streets that are periodically pedestrianised. In certain parts of the city licensees may be required to agree to restrictions on delivery times.
- 4.4 To promote the work of the Brighton & Hove Drug and Alcohol Action Team and support the operations of the Council's Trading Standards Team, licensed sites involved in the sale of cigarettes or of alcohol for off-premises consumption shall be required to display, at all times, such notices relating to illegal sales to or illegal purchase on behalf of minors.
- 4.5 Note that the following general rules will be applied to all officer-approved applications/sites within the city:
- A) That no licensed traders' items will be permitted to reduce the width of a footway to less than 1.3 metres except where:
1. a formal pedestrian zone has been established in a road by Traffic Order and the whole of the carriageway is kept clear for pedestrian use
 2. a road is closed to vehicular traffic by virtue of a temporary Traffic Order and the whole of the carriageway is kept clear for pedestrian use
 3. a road is considered to be "shared space" and the whole carriageway is generally available for pedestrian use

4. discretion to allow this has been exercised by Elected Members in Committee or Cabinet, due to special circumstances.
- B) That where a footway is reduced to a width of 1.3 metres (or less) by objects (whether these objects be licensable traders' items or fixed street furniture such as lamp posts, bins etc.) "turning circles" for manual wheelchair users and guide dogs must be established at regular intervals. These "turning circles" shall not be less than 1.6m in length and must be maintained at least every 6 metres along the length of a restricted footway.
- C) That, except in the case of items within large, waiter-serviced sitting-out areas, no traders' item shall be permitted to be placed more than five metres from the licensed premises or out of sight from a window or door of said premises.

In certain circumstances, refusal by an officer of the licence application because of the above criteria may be challenged by means of Formal Appeal to Committee or Cabinet. Note however that no activities can take place at a site until such a decision is reached.

6. Enforcement Procedure (removals):

The following enforcement procedure shall be applied as standard for all items placed on the Public Highway in breach of the DfT guidelines and the rules and conditions of the Highway Licensing System as detailed above:

- That on the discovery of a breach of the guidelines, rules and conditions, a written warning shall be issued to the relevant business/person, warning and advising them of their need to abide by the prevailing regulations.
- That on the discovery of a second such breach within eight weeks of the first, a second warning notice be served.
- That on the discovery of a third such breach within eight weeks of the second warning a third warning shall be served.

If the recipient of a third warning is a holder of a Highway Licence, then this licence shall be temporarily suspended by virtue of said notice pending consideration of the case by the Senior Highway Enforcement Officer. The period of suspension will be dependent on the seriousness of the breach and the measures taken by the licensee to ensure future compliance with the regulations. Further breaches may result in the rescinding of the licence.

Any unauthorised items found on any site following a third warning or suspension/rescinding of a licence may be removed from the Public Highway and impounded without a further warning being served. Owners of objects so impounded will be given the opportunity to recover their property. Where appropriate a charge may be made by the Council for the costs of removal and storage.

The Council reserves the right to proceed with removal of offending items or prosecution under the Highways Act 1980 at any stage of the above procedure in any case involving gross or regular breaches of legislation.



SUSTAINABLE TRANSPORT OPERATIONAL POLICY STATEMENT

CONTROL OF PLACEMENTS ON THE HIGHWAY

HP8/4

Objective

To control obstructions upon the highway to ensure safe use and access, while permitting essential works, supporting business and encouraging a vibrant street scene.

Policy

1. The Director of Environment shall issue, where appropriate, statutory licences permitting the following obstructions:-

- (a) Temporary obstructions associated with building, refurbishment and development works, as permitted by the Highways Act 1980 (e.g. deposit of building materials, parking of builders' skips, erection of scaffolding/hoardings, etc.). A licence fee will reflect the cost of processing by the Council. Appropriate enforcement action shall be undertaken against unlicensed objects and breaches of licence conditions.
- (b) Temporary Highway Obstructions – e.g. private drain/sewer connections, etc.
- (c) Permanent Highway Furniture – e.g. roadside seats, bus shelters, etc.
- (d) Amenities on certain highways and provided for under Section 115A to K of the Highways Act as amended under the Local Government (Miscellaneous Provisions) Act 1982.

2. The Director of Environment shall, where appropriate, issue licences under the Highways Act 1980 as amended by the Local Government (Miscellaneous) Act 1982 for reasonable use and controlled obstruction of the highway by businesses and organisations. Permitted items shall include:-

- a) Shop displays (including stands and racks)
- b) Tables and chairs
- c) Event-related items (stalls, stages, safety barriers etc.)
- d) Free-standing items for advertising/information (map panels, menu boards, "A" Boards, dispensers etc.)
- e) Other items permitted by said legislation

A licence fee will reflect the cost of processing by the Council.

The Authority will set reasonable licence conditions, including site-specific conditions, for all licences issued. In general such conditions will relate to public access and safety.

Where deemed necessary, for example, in pedestrianised zones, conservation areas and districts within the main tourist areas of the City, the Council may, in addition to the above, impose reasonable conditions regarding the appearance of objects and structures authorised by licence. Such conditions would be intended to preserve or enhance the amenity of the highway and its immediate surroundings.

Appropriate enforcement action shall be undertaken against unlicensed objects and breaches of licence conditions.

3. Powers under the Highways Act 1980 shall be applied to control overhanging trees/hedges, projecting roots, etc. considered to obstruct the highway.

Policy (cont)

4. No advertising signs or banners of any nature which exceed four square metres in area shall be permitted upon any scaffolding placed upon the highway.
5. Unauthorised banners may be subject to removal and those responsible pursued under relevant legislation.
6. All licensees will be required to indemnify the Council against all claims arising from the grant of any permission relating to the highway.
7. Powers under the Highways Act 1980 shall be applied to control significant, non-vehicular obstructions of and encroachments on the highway not covered by the above.

Supporting Information

The Council will carry out its duty to protect and uphold the rights of use and enjoyment of all legitimate users of the public highway, without discrimination, as established by the Highways Act 1980 and other relevant legislation.

References

Highways Act 1980, Local Government (Miscellaneous Provisions) Act 1982, Disability Discrimination Act 1990, "Public Spaces, Public Life" document

Date of Approval:

Review By: Within 5 Years

Map





View from St James's Street.



View from Premises.

Subject:	Highway Licensing Appeal		
Premises:	Bottoms Rest, 16 Lower Market Street, Hove, BN3 1AT		
Applicant:	Simon Duddington		
Date of Meeting:	20 July 2015		
Report of:	Executive Director, Environment, Development and Housing		
Contact Officer:	Name:	David Fisher	Tel: (01273) 292065
	Email:	David.fisher@brighton-hove.gcsx.gov.uk	
Ward(s) affected:	Brunswick and Adelaide		

FOR GENERAL RELEASE.

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 To determine an application for a Highway Licence under The Highways Act 1980 for Bottoms Rest. To allow them to place tables and chairs on the public highway. (Appendix 1)
- 1.2 The report relates to the reduction of public highway to less than 1.3m and therefore cannot be determined using officers delegated powers and is in contravention of Highway Policy HP8/4 that seeks to maintain safe access and use of the public highway.

2. RECOMMENDATIONS:

- 2.1 That the Panel determine an application for a New Highway Licence under The Highways Act 1980 for Bottoms Rest.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Council's policy "Control of Placements on the Highway HP8/4" sets out "*To control obstructions upon the highway to ensure safe use and access, while permitting essential works, supporting business and encouraging a vibrant street scene.*" (Appendix 2)
- 3.2 The pavement outside 16 Lower Market Street is not entirely public highway. The public highway is 1.2m wide not including the kerb edge of 0.30m. (Appendix 3)
- 3.3 The area of public highway requested will reduce the public highway to a maximum of 0.60m and a minimum of 0.47m again not including the kerb of 0.30m.

- 3.4 The pavements in the surrounding area are very narrow including 0.60m at one side and are often reduced further by bins, lamp columns and parked cars.
- 3.5 Previous occupants of the premises then called The Conqueror had a highway licence that reduced the footway in the same manner as this application. This licence was agreed by licencing panel in 2007 after objections from residents were received during the 28 day notice, however the minimum footway width of 1.3m was not introduced until 2010. The licence issued to the Conqueror had been renewed each year since 2007 and was current until the new occupants took over in January 2014.

4. CONSULTATION

- 4.1 A 28 day notice was placed in the area inviting comments. One email was received (Appendix 4).
- 4.1 An equalities impact assessment was carried out during the policy review in 2009 which involved consultation with a wide range of relevant groups, traders and local residents.
- 4.2 Full consultation was also carried out by the Overview and Scrutiny Street Access Panel including a public invitation to submit evidence and 3 public meetings where individuals and representatives of various organisations or businesses were invited to give evidence. (documents in members room)

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The cost to the council of processing this licence application and potential income is met from within the existing Highways Enforcement Team revenue budget within the Transport revenue budget. The annual fee for the application is expected to be £145.20 per annum.

Finance Officer Consulted: Steven Bedford

Date: 12/06/15

Legal Implications:

- 5.2 Section 130 of the Highways Act 1980 imposes a duty on the Council as highway authority to assert and protect the rights of the public to the use and enjoyment of any highway within its area and so far as possible to prevent the obstruction of the highway. However, the highway authority is empowered to license the placing of certain objects on the highway, e.g. tables and chairs under the provisions of Part VII A of the 1980, although in doing so it must have regard to the provisions, including the Council's duties, of the Equality Act 2010. The panel must hear the appeal and determine this application having regard to its policy, legislation and the circumstances of this application.

Equalities Implications:

- 5.3 The council seeks to ensure that the public highway is used in a manner that maximises the benefit to the most number of users. However in the busiest areas of

the city competing interests can come into conflict. It is the council's responsibility to manage these interests and to ensure equality of access particularly for those with mobility issues. Wheelchair and pushchair access usually requires 1.2-1.3m minimum clearance.

Sustainability Implications:

- 5.4 There are no sustainability issues identified.

Crime & Disorder Implications:

- 5.5 Reports of noise and disturbance have been received by environmental health since 2006 with the latest being in July 2014. A number of the reports relate to patrons using the outside area after 23:00, standing and sitting on the other side of road. Premises licensing conditions state that the outside area must close at 23:00 (appendix 5)

Risk and Opportunity Management Implications:

- 5.6 The council seeks to ensure that access and risk issues are reduced by controlling items to be placed on the public highway.

Corporate / Citywide Implications:

- 5.7 Each site is individually assessed so does not necessarily set a precedent but may be of relevance to any future applications from other businesses.

SUPPORTING DOCUMENTATION

Appendices:

1. Highway licence application and standard conditions
2. Control of placements policy
3. Photos and plans of site
4. Emailed objections
5. Premises Licence and conditions

Documents In Members' Rooms

Street access scrutiny review and recommendations

Background Documents

None



Brighton & Hove City Council

RECEIVED
19 MAR 2015

Application for permission to place Tables & Chairs upon the Public Highway
(Highways Act 1980) and The Local Government (Miscellaneous Provisions) Act 1982
Permission valid until 30th April 2016

Title: MR Name of Applicant (in full) SIMON JAMES DUODINGTON

Name of business for which permission is required BOTTOMS REST

Address: (This is the address to which all correspondence will be sent unless otherwise indicated by the applicant.)

16 LOWER MARKET STREET

Post Code BNS 1AT Tel. No. 01273 733573

Email bottoms.rest@googlemail.com

Correspondence address if different from above:

Post Code Tel. No.

I hereby apply for a licence to place an object or objects upon the Public Highway as detailed above. I confirm that I have read, understand and agree to abide by the conditions enclosed and any special conditions. I understand that the licence will expire on 30th April following this application. Payment for the approval and issuing processes is enclosed/has been made.

Name (block capitals) SIMON DUODINGTON Position (block capitals) MANAGER/LICENSER

Signed: [Signature] Date: 16/3/15

For Council Office use only – please do not write in the space below

BRIGHTON AND HOVE CITY COUNCIL acting by their Executive Director Environment, Development & Housing, in pursuance of the above enactments hereby grant permission for the placing of objects on part of the paved Public Highway outside the premises as described above or attached.

Signed: Name:

For the Executive Director Environment, Development & Housing,
Brighton & Hove City Council

Date

Special Conditions:

[PTO]

Please describe and sketch the proposed placement (Use a separate sheet of paper if necessary)

Please provide names and address of the owners or other tenants if you are not the owners/sole tenant of the property.

(use a separate sheet of paper if necessary)

Incomplete or inaccurate applications cannot be processed and will be returned.

Please note that payment must accompany this application.

LICENCE FEES:

Initial applications (i.e. where no previous licence has been held, or where a previous licence has expired) are subject to a one-off charge to cover the application/approval process.

There are two charge bands:

1. £163.00 for areas of less than 5 sq.m.
2. £333.00 for larger areas.

There is an additional annual charge of £22.00 per square metre for each square metre of Highway the licensee wishes to occupy, with there being a minimum charge of £71.00

HOW TO PAY

Cheque

- Please make cheques payable to Brighton & Hove City Council
- Write the name of the business on the reverse, plus the code EVH031/LG105

Credit/Debit Card

- Phone (01273) 292071 to make a card payment. We can accept Visa, MasterCard and American Express. You will be given a payment reference/transaction number, which you should write in the box top left on the application form.

Website

Go to www.brighton-hove.gov.uk, click "Pay Online", then Licences and select "Tables & Chairs" from the drop-down menu.

Please enter the name of the business in the "Reference" window. Also enclose a copy of the receipt, or enter the receipt number in the box top left on the application form.

If you have any queries, please phone 01273 292071

**Please return this form to:
The Highway Enforcement Manager, Brighton & Hove City Council,
Highway Enforcement, 2nd Floor Open Plan Office,
King's House, Grand Avenue, Hove BN3 2LS**



Brighton & Hove City Council

Licence Conditions 2015-2016

Tables & Chairs

The following conditions will be introduced to apply to all highway licences issued.

1. Terms:

- 1.1 The term "licence" used below refers to any Highway Permission issued by the Highway Enforcement Team.
- 1.2 A "licensee" is deemed to be the body or individual to whom the licence has been issued.
- 1.3 A "licensed area" is that area of public highway covered by the licence.

2. Legal Issues:

- 2.1 This licence is not transferable.
- 2.2 Sub-letting of the highway is forbidden. A frontager who is a licensee may, with the advance written permission of the council, permit a suitable third party (i.e. a party the council would consider to be an appropriate licensee themselves) to display items within a relevant licensed area, but there should be no financial transaction associated with such an arrangement. Any third party must meet and comply with all licence conditions, including the holding of Public Liability Insurance (see below). Responsibility for breaches of licence conditions will lie with the licensee.
- 2.3 The licensee agrees to indemnify the council against any claims in respect of injury, damage or loss arising out of the grant of the licence. Public Liability Insurance cover of at least one million pounds must be carried for the duration of the licence. Evidence for this cover must be produced on demand.
- 2.4 The licence may be suspended or revoked and/or the licensee required to temporarily remove the objects by the council for any legally defensible reason. The licensee shall not be entitled to any compensation for loss of trade or business as a result.
- 2.5 If deemed necessary the council may alter licence conditions at any time. The licensee shall not be entitled to any compensation for loss of trade or business as a result.
- 2.6 Where necessary, the council may place time limits to restrict the use of licensed areas to permitted hours. In general, these restrictions will apply to premises with alcohol licences and will not exceed the hours set by the terms of such licences.
- 2.7 Licences are valid for a maximum of 12 months and expire at 24:00 hrs. on the 30th April 2016. Licences are subject to an annual review. Payment of licence fees is a condition of the licence.

- 2.8 Licences only relate to the placing of objects upon the highway. It is the responsibility of the licensee to obtain all other consents required in connection with the proposed extension of their business onto the highway including, where appropriate, any amendment to their existing liquor licence.
- 2.9 It is a condition of Highway Licences that all consents and permissions and all health & safety, environmental health or other legal provisions or measures required by Brighton & Hove City Council or other legal authorities are obtained and adhered to. Proven failure to comply with legislation and/or the reasonable and legitimate instructions of an authorised officer of the Council, Her Majesty's Health & Safety Executive or the Police may be considered a breach of the conditions governing the licence.

3. Licensed Areas:

- 3.1 The council reserves the right to limit the number of items placed within a licensed area. Factors influencing such limits may include the density of tables/chairs within a licensed area and the ratio between the number of covers within the licensed area and those inside the actual premises.
- 3.2 Patrons within a licensed area must be seated. Vertical drinking shall not be permitted at any time.
- 3.3 Benches or other objects which cannot easily be removed and stored within the licensed premises shall not be permitted unless noted within the original application and agreed in advance and in writing by the council. The council may specify how items left out overnight shall be stored or stacked.
- 3.4 Licensees who significantly alter the nature of their items (e.g. the design of seating/tables/barriers) without prior consultation and a written agreement from the council will be deemed to have breached licence conditions.
- 3.5 No free-standing items issuing heat or with heated elements (such as gas or electric heaters) may be permitted within a licensed area unless the intention to place such items was noted within the original licence application and agreed in advance and in writing by the council. A Risk Assessment for the use of such items must be submitted with the application
- 3.6 The council can insist that licensed areas are surrounded by barrier or fencing. The use and design of all such barriers must be approved in writing by the council.
- 3.7 The licensee shall ensure that all glasses, bottles and other debris from the licensed premises are collected and returned to the licensed premises regularly and at the end of each session.
- 3.8 The council may require the use of plastic containers only within certain licensed areas.
- 3.9 The licensed area must be kept clean, being washed down as necessary, and free of litter at all times. The licensee is responsible for regularly clearing all debris and litter associated with the licensed premises, whether inside the bounds of the licensed area or not.
- 3.10 No object may be placed upon the highway outside the licensed area or away from the licensed position at any time. Advertising boards placed inside the licensed area must be no larger than 1.2m high x 1.1m wide. All items must be checked at regular intervals. Areas associated with the consumption of food or drink must be constantly monitored. Items left unattended or found out of sight of the licensed premises may be removed and impounded without warning.
- 3.11 The cooking of food within a licensed area is prohibited.

3.12 Licensees with display or sitting-out areas will be supplied with a Data Sheet showing the extent of the highway licensed to them. This document must be kept on site and be available for inspection on demand at any time by officers of the council or other agencies, elected members and the general public.

3.13 Premises with sitting-out areas may not place advertising boards outside licensed areas unless such placements are separately licensed and conform with all other relevant conditions.

4. General:

4.1 The licensee must clearly display on site a Display Licence provided by the council. This should be placed in a window, glass door or menu stand of the licensed premises clearly be visible and legible from the highway.

4.2 Anything left upon the highway outside business hours or the hours stated in the licence conditions, or any item found chained or tied to any other object, street furniture or building without prior written permission, may be removed and impounded without further warning.

4.3 The improper parking of vehicles by staff or persons associated with the licensed site (including delivery vehicles) will be considered a breach of the licence. This is of particular importance within those areas where vehicle access is restricted and in streets that are periodically pedestrianised. In certain parts of the city licensees may be required to agree to restrictions on delivery times.

4.4 To promote the work of the Brighton & Hove Drug and Alcohol Action Team and support the operations of the Council's Trading Standards Team, licensed sites involved in the sale of cigarettes or of alcohol for off-premises consumption shall be required to display, at all times, such notices relating to illegal sales to or illegal purchase on behalf of minors as may be supplied by the Highway Enforcement Team.

4.5 Note that the following general rules will be applied to all officer-approved applications/sites within the city:

- A) That no licensed traders' items will be permitted to reduce the width of a footway to less than 1.3 metres except where:
 - 1. a formal pedestrian zone has been established in a road by Traffic Order and the whole of the carriageway is kept clear for pedestrian use
 - 2. a road is closed to vehicular traffic by virtue of a temporary Traffic Order and the whole of the carriageway is kept clear for pedestrian use
 - 3. a road is considered to be "shared space" and the whole carriageway is generally available for pedestrian use
 - 4. discretion to allow this has been exercised by Elected Members in Committee or Cabinet, due to special circumstances.
- B) That where a footway is reduced to a width of 1.3 metres (or less) by objects (whether these objects be licensable traders' items or fixed street furniture such as lamp posts, bins etc.) "turning circles" for manual wheelchair users and guide dogs must be established at regular intervals. These "turning circles" shall not be less than 1.6m in length and must be maintained at least every 6 metres along the length of a restricted footway.**
- C) That, except in the case of items within large, waiter-serviced sitting-out areas, no traders' item shall be permitted to be placed more than five metres from the licensed premises or out of sight from a window or door of said premises.**

In certain circumstances, refusal by an officer of the licence application because of the above criteria may be challenged by means of Formal Appeal to Committee or Cabinet. Note however that no activities can take place at a site until such a decision is reached.

5. Enforcement Procedure (removals):

The following enforcement procedure shall be applied as standard for all items placed on the Public Highway in breach of the DfT guidelines and the rules and conditions of the Highway Licensing System as detailed above:

- That on the discovery of a breach of the guidelines, rules and conditions, a written warning shall be issued to the relevant business/person, warning and advising them of their need to abide by the prevailing regulations.
- That on the discovery of a second such breach within eight weeks of the first, a second warning notice be served.
- That on the discovery of a third such breach within eight weeks of the second warning a third warning shall be served.

If the recipient of a third warning is a holder of a Highway Licence, then this licence shall be temporarily suspended by virtue of said notice pending consideration of the case by the Highway Enforcement manager. The period of suspension will be dependent on the seriousness of the breach and the measures taken by the licensee to ensure future compliance with the regulations. Further breaches may result in the rescinding of the licence.

Any unauthorised items found on any site following a third warning or suspension/rescinding of a licence may be removed from the Public Highway and impounded without a further warning being served. Owners of objects so impounded will be given the opportunity to recover their property. Where appropriate a charge may be made by the Council for the costs of removal and storage.

The Council reserves the right to proceed with removal of offending items or prosecution under the Highways Act 1980 at any stage of the above procedure in any case involving gross or regular breaches of legislation.



SUSTAINABLE TRANSPORT OPERATIONAL POLICY STATEMENT

CONTROL OF PLACEMENTS ON THE HIGHWAY

HP8/4

Objective

To control obstructions upon the highway to ensure safe use and access, while permitting essential works, supporting business and encouraging a vibrant street scene.

Policy

1. The Director of Environment shall issue, where appropriate, statutory licences permitting the following obstructions:-

- (a) Temporary obstructions associated with building, refurbishment and development works, as permitted by the Highways Act 1980 (e.g. deposit of building materials, parking of builders' skips, erection of scaffolding/hoardings, etc.). A licence fee will reflect the cost of processing by the Council. Appropriate enforcement action shall be undertaken against unlicensed objects and breaches of licence conditions.
- (b) Temporary Highway Obstructions – e.g. private drain/sewer connections, etc.
- (c) Permanent Highway Furniture – e.g. roadside seats, bus shelters, etc.
- (d) Amenities on certain highways and provided for under Section 115A to K of the Highways Act as amended under the Local Government (Miscellaneous Provisions) Act 1982.

2. The Director of Environment shall, where appropriate, issue licences under the Highways Act 1980 as amended by the Local Government (Miscellaneous) Act 1982 for reasonable use and controlled obstruction of the highway by businesses and organisations. Permitted items shall include:-

- a) Shop displays (including stands and racks)
- b) Tables and chairs
- c) Event-related items (stalls, stages, safety barriers etc.)
- d) Free-standing items for advertising/information (map panels, menu boards, "A" Boards, dispensers etc.)
- e) Other items permitted by said legislation

A licence fee will reflect the cost of processing by the Council.

The Authority will set reasonable licence conditions, including site-specific conditions, for all licences issued. In general such conditions will relate to public access and safety.

Where deemed necessary, for example, in pedestrianised zones, conservation areas and districts within the main tourist areas of the City, the Council may, in addition to the above, impose reasonable conditions regarding the appearance of objects and structures authorised by licence. Such conditions would be intended to preserve or enhance the amenity of the highway and its immediate surroundings.

Appropriate enforcement action shall be undertaken against unlicensed objects and breaches of licence conditions.

3. Powers under the Highways Act 1980 shall be applied to control overhanging trees/hedges, projecting roots, etc. considered to obstruct the highway.

Policy (cont)

4. No advertising signs or banners of any nature which exceed four square metres in area shall be permitted upon any scaffolding placed upon the highway.
5. Unauthorised banners may be subject to removal and those responsible pursued under relevant legislation.
6. All licensees will be required to indemnify the Council against all claims arising from the grant of any permission relating to the highway.
7. Powers under the Highways Act 1980 shall be applied to control significant, non-vehicular obstructions of and encroachments on the highway not covered by the above.

Supporting Information

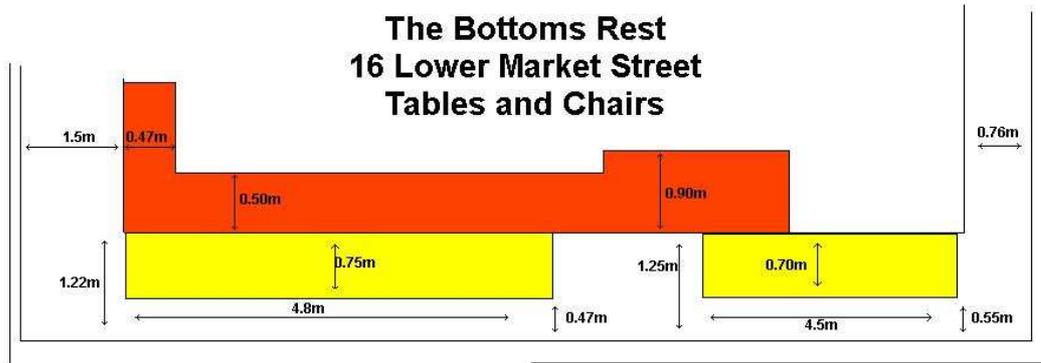
The Council will carry out its duty to protect and uphold the rights of use and enjoyment of all legitimate users of the public highway, without discrimination, as established by the Highways Act 1980 and other relevant legislation.

References

Highways Act 1980, Local Government (Miscellaneous Provisions) Act 1982, Disability Discrimination Act 1990, "Public Spaces, Public Life" document

Date of Approval:

Review By: Within 5 Years



Measurements do not include kerb edge of 0.30m





Bottoms Rest, Highway Licensing appeal.



Bottoms Rest, Highway Licensing appeal.

Dear Mr Fisher,

I'm writing regarding the application by Bottom's Rest, 16 Lower Market Street, BN3 1AT to place tables and chairs outside of the pub on the footpath.

The problem we've had every year so far and I fully expect to recur this year is that customers don't ever adhere to the boundaries and spill out onto the rest of the pavement and the street, making passing with children or a pushchair very difficult. There are 8 families with young children living on Lower Market Street in very close proximity to the pub (it is a residential area, not a commercial one) and on sunny days or weekends throughout the spring and summer customers from the pub crowd the street outside and even spill into the road and onto the other side of the road making it very difficult, if not impossible, to safely use the footpath. Its a popular pub and despite licencing laws the managers have never managed to control their customers in any useful manner.

Please consider this when making your decision.

Joel

--

Joel Tomlinson

REthink Energy Ltd

t: 07739 326120 w: rethink-energy.co.uk



Brighton & Hove City Council

Schedule 12

Part A

Regulation 33, 34

Premises Licence Brighton and Hove City Council

Premises Licence Number

1445/3/2007/01225/LAPREV

Part 1 – Premises Details

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

Bottom's Rest
16 Lower Market Street
Hove
BN3 1AT

Telephone number 01273 733513

Where the licence is time limited the dates -

Licensable activities authorised by the licence

Performance of Recorded Music
Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities

Performance of Recorded Music - Indoors

Sunday - Thursday: 09.00 - 23.30

Friday - Saturday: 09.00 - 00.30

Music to be played during extra trading times on bank holidays, Christmas Eve, Boxing Day, New Year's Eve and New Year's Day.

Sale by Retail of Alcohol

Sunday - Thursday: 10.00 - 23.30

Friday - Saturday: 10.00 - 00.30



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A further additional hour into the morning following Thursday, Friday, Saturday and Sunday of each Easter bank holiday. A further additional hour into the morning following every Friday, Saturday and Sunday for each May bank holiday, Spring/Whitsun bank holiday and each August bank holiday, and for any further bank holiday added to the British calendar. A further additional hour on Christmas Eve except where it falls on a Friday or Saturday. A further additional hour on Boxing Day.

The opening hours of the premises

Sunday - Thursday: 09.00 - 00.00

Friday - Saturday: 09.00 - 01.00

A further additional hour into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend. A further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend, and for any further Bank Holiday added to the British calendar. A further additional hour every Christmas Eve except where it falls on a Friday or Saturday. A further additional hour every Boxing 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

Punch Taverns Plc
Jubilee House
Second Avenue
Burton Upon Trent
Staffordshire
DE14 2WF

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

Registered Number: 03752645



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

Simon James Duddington
1 St Aubyns Court
17 - 19 St Aubyns
Hove
BN3 2TH

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

Party Reference: 2008/00515/LAPER
Council

Issuing Authority: Brighton & Hove City



Brighton & Hove City Council

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);



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(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.

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.



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2. For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(1);

(b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(2).

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Embedded Conditions:

All embedded restrictions inherent in the Licensing Act 1964, the Cinematograph (Safety) Regulations 1955 and the Children and Young Persons Act 1933 are removed.



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Annex 2 – Conditions consistent with the Operating Schedule

For the Prevention of Crime and Disorder:

1. There is to be no entry or re-entry after the end of the sale of alcohol.
2. Not less than 5 working days written notice will be provided to police when 'event' days are planned.

For Public Safety: N/A

For the Prevention of Public Nuisance:

3. The licensee shall ensure that prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
4. The premises must not have any aggressive drinks promotions e.g. two for one offers.

For the Protection of Children from Harm:

5. Photographic proof of age will be required to be shown by anyone seeking to purchase alcohol who appears to be under 18 years of age.

Annex 3 – Conditions attached after a hearing by the Licensing Authority

- (1) A noise limiter to be installed at a level to be determined by the local authority.
- (2) No live music.
- (3) All windows and doors to be closed at 21.30 hours, seven days a week, other than for access and egress.
- (4) There will be no entry after midnight on Friday and Saturday.
- (5) The outside seating area to be closed at 23.00 hours, 7 days a week.
- (6) The outside bottle storage bin not to be used between 20.30 hours and 11.00 hours, 7 days a week.



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- (7) The cellar chiller unit to operate only between 10.00 hours to 23.00 hours, 7 days a week. This will be controlled by a timer clock.
- (8) Customers to be prevented from taking alcohol in open containers onto the street.
- (9) The License holder 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.

Annex 4 – Plans

