

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

Agenda Item 121

Brighton & Hove City Council

Subject: Application for a Variation of a Premises Licence under the Licensing Act 2003 for Tin Drum, 10 Victoria Grove, Second Avenue, Hove, BN3 2LJ.

Date of Meeting: 6 March 2009

Report of: Assistant Director Public Safety

Contact Officer: Name: Emma Bricknell Tel: 29-4431
E-mail: emma.bricknell@brighton-hove.gov.uk

Wards Affected: Central Hove

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 Tin Drum

2. RECOMMENDATIONS:

- 2.1 To determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for Tin Drum.

- 2.2 The application is for:

A Variation of a Premises Licence under the Licensing Act 2003 for Tin Drum.

The variation proposes:

We would like the facility to play live, amplified music from time to time.

2.3 Summary table of existing and proposed activities:

	<i>Existing</i>	<i>Proposed</i>
E Live music	N/A	Indoors Monday - Saturday: 12.00-23.00 Sunday: 12.00-22.00 We require the facility to play live amplified music from time to time including small local bands and a live jazz quartet during Sunday lunchtimes.
F Recorded Music	Indoors Monday - Saturday: 10.00 - 01.00 and Sunday: 10.00 - 22.30.	As existing.
L Late Night Refreshment	Indoors Monday - Saturday: 23.00 - 01.00.	As existing.
M Supply of Alcohol	Sale by Retail of Alcohol. On premises only. Monday - Saturday: 10.00 - 01.00 and Sunday: 10.00 - 22.30.	As existing.
O Hours premises are open to public	Monday to Saturday: 10.00 - 01.00 and Sunday: 10.00 - 22.30.	As existing.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

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

3.2.1 Representations received

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

3.2.2 Four representations were received. They were received from local residents and the Environmental Protection team.

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

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 public nuisance

- 4.1 In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, or as a result of people entering or leaving the premises or from individuals or groups of customers gathered outside (e.g. in order to smoke).
- 4.4 Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.
- 4.5 Staggered closing times will not be used to combat binge drinking disorder and antisocial behaviour. Zoning will be avoided. A general principle of later opening so that customers can leave for natural reasons, slowly over longer periods will be promoted, to prevent unnatural concentrations of people. The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.
- 4.8 Regard will be had to any history or likelihood of nuisance. Generally, favourable consideration will be given to applications for later hours in the city centre and on busy main roads. Powers may be exercised to impose conditions as to hours of opening in order to avoid unreasonable disturbance to residents of the neighbourhood.

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: 12.02.2009

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: 12.02.2009

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 application.
2. Appendix B – Map of area.
3. Appendix C – Part A of Premises Licence.
4. Appendix D – Representations A – D for Tin Drum, Second Avenue, Hove.

Documents in Members' Rooms:

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

Background Documents:

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

APPENDIX A

P Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

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

On occasions when live music is played the manager will be instructed to monitor noise levels from outside the building and adjust volumes to suit.

b) The prevention of crime and disorder

Security will be provided on Friday & Saturday nights as per the conditions of our License.

c) Public safety

Security will be provided on Friday & Saturday nights as per the conditions of our License

d) The prevention of public nuisance

Security will be provided on Friday & Saturday nights as per the conditions of our License

e) The protection of children from harm

APPENDIX B

Tin Drum, 10 Victoria Grove, Second Avenue, Hove, BN3 2LJ



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APPENDIX C

Schedule 12
Part A

Regulation 33, 34

Premises Licence
Brighton and Hove City Council

Premises Licence Number

1445/3/2005/02020/LAPREV

Part 1 – Premises Details

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

Tin Drum
10 Victoria Grove
Second Avenue
Hove
East Sussex
BN3 2LJ

Telephone number 01273 747 755

Where the licence is time limited the dates-

Licensable activities authorised by the licence

Performance of Recorded Music
Late Night Refreshment
Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities

Performance of Recorded Music- Indoors
Monday - Saturday: 10.00 - 01.00 and Sunday: 10.00 - 22.30.

Late Night Refreshment- Indoors
Monday - Saturday: 23.00 - 01.00.

Sale by Retail of Alcohol
Monday - Saturday: 10.00 - 01.00 and Sunday: 10.00 - 22.30.

The opening hours of the premises

Monday to Saturday: 10.00-01.00 and Sunday: 10.00- 22.30

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption on the Premises.

Part 2

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

Drum At The Dials Ltd
10 Victoria Grove
Second Avenue
Hove
East Sussex
BN3 2LJ

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

Name designated premises supervisor where the premises licence authorises for the supply of alcohol

Aaron Ole Emerson

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

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:

1. Permitted Hours

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

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:

- 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.

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

(Justices') Licence Conditions

1. Fifty covers to be retained in the premises at all times.
2. Occupant capacity not to exceed that as directed by the Fire Officer, i.e. 75 including staff.
3. External areas to be defined by way of a substantial barrier.
4. Premises to trade as a bar café/restaurant and not as a public house.
5. CCTV and appropriate recording equipment to be installed, operated and maintained internally and externally following consultation with Sussex Police to a standard specification.

Variations to Embedded Conditions:

References to permitted hours removed where superseded.

Annex 2 - Conditions consistent with the Operating Schedule

For the prevention of crime and disorder:

Door staff licensed by the Security Industry Authority (SIA) will be used until closing time on Fridays and Saturdays.

For public safety:

Door staff licensed by the Security Industry Authority (SIA) will be used until closing time on Fridays and Saturdays.

For the prevention of public nuisance:

Door staff licensed by the Security Industry Authority (SIA) will be used until closing time on Fridays and Saturdays.

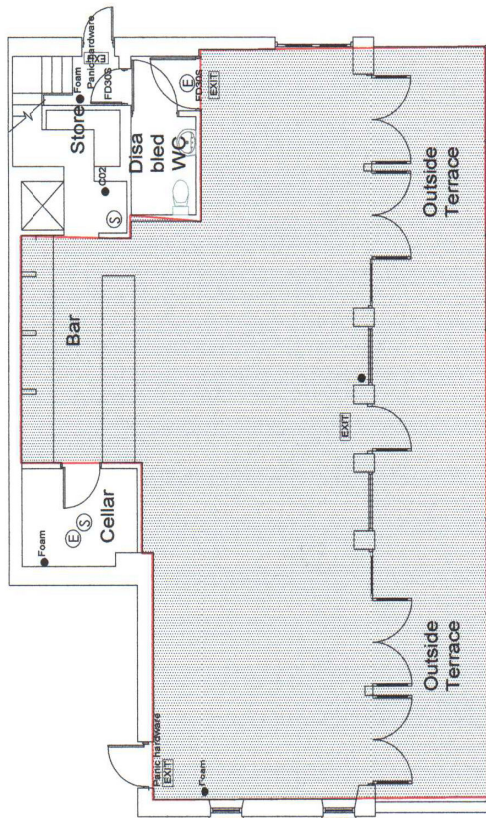
For the protection of children from harm:

Door staff licensed by the Security Industry Authority (SIA) will be used until closing time on Fridays and Saturdays.

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

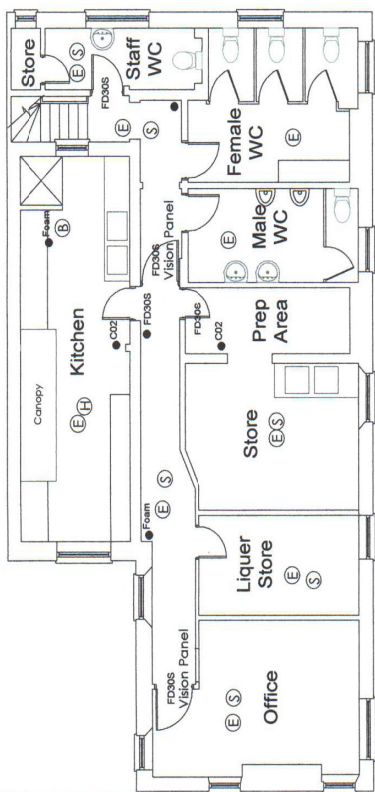
N/A

Annex 4 - Plans



Ground Floor

 = Licensed Area



First Floor

Fire Safety Installation Elements

- Panic hardware**
- F0308** Fire Blanket
- KLS** Fire Door To Be Kept Locked/With BS Approved Sign
- (E)** Emergency Lighting
- (B)** Fire Blanket
- (H)** Heat Detector
- (S)** Smoke Detector
- (C)** Call Point / Break glass
- (S)** Sounder
- (EXIT)** Illuminated exit sign
- (E)** H2O Extinguisher
- (C02)** CO2 Extinguisher
- (FCP)** Fire Control Panel

CLIENT:	The Tin Drum
JOB:	Second Avenue, Hove
DRAWING:	Licensing Drawing
DWG. NO.	HOVE 001
DATE:	Apr. 05
SCALE:	1:100

Drum Developments

4 Harrington Road Brighton, BN1 6BE
Tel: 01273 447888 Fax: 01273 521008

