

Licensing Panel (Licensing Act 2003 Functions)

Date: **12 December 2022**

Time: **10.00am**

Venue **Virtual**

Members: John, Simson & Pissaridou

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AGENDA

1 TO APPOINT A CHAIR FOR THE MEETING

WELCOME & INTRODUCTIONS

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.

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(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.

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

3 YELKEN LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

7 - 70

Contact Officer: Corinne Hardcastle

Tel: 0127329

Ward Affected: Queen's Park

Date of Publication - Friday, 2 December 2022

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Licensing Panel (Licensing Act 2003 Functions)

Agenda Item
Brighton & Hove City Council

Subject:	Review of a Premises Licence under the Licensing Act 2003		
Premises:	Yelken 109 St James's Street Brighton BN2 1TH		
Premises Licence Holder:	Ali Algun		
Date of Meeting:	12 December 2022		
Report of:	Executive Director for Housing, Neighbourhoods & Communities		
Contact Officer:	Name:	Corinne Hardcastle	Tel: (01273) 294429.
	Email:	corinne.hardcastle@brighton-hove.gov.uk	
Ward(s) affected:	Queen's Park		

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1 To review a Premises Licence for Yelken under the Licensing Act 2003.

2. RECOMMENDATIONS:

2.1 That the Panel review the licence granted to the premises known as Yelken under the Licensing Act 2003.

3. CONTEXT/ BACKGROUND INFORMATION & CONSULTATION

3.1 Existing licence attached at Appendix A.

3.2 Brighton & Hove City Council is both the relevant licensing authority and a responsible authority in respect of any premises and may in its capacity apply under Section 51 of the Licensing Act 2003 for a review of any premises licence in respect of the premises.

3.3 An application was received by the Licensing Authority on 24 October 2022 from Sussex Police, to review the licence granted to the premises known as Yelken, 109 St James's Street, Brighton, BN2 1TH.

3.4 The grounds for the review relates to the following Licensing objectives

- The Protection of Children from Harm
- The Prevention of Public Nuisance
- The Prevention of Crime and Disorder
- Public Safety

Full details of the grounds for the review (together with a copy of supporting evidence) are attached in Appendix B.

3.5 At this hearing the licensing authority must:

- Consider the application made in accordance with Section 51
- Consider any relevant representations
- Take such steps (if any) as are considered appropriate for the promotion of the Licensing objectives. These steps are
 - to modify the conditions of the licence
 - to exclude a licensable activity
 - to remove the designated premises supervisor from the licence
 - to suspend the licence for a period not exceeding 3 months, or
 - to revoke the licence.

And for this purpose, the conditions of a premises licence are modified if any of them are altered, omitted or any new condition is added. It may provide that the modification or exclusion have effect for a specified period not exceeding 3 months. The determination, if not completed at the hearing, shall be within 5 working days of the hearing. Such determinations do not have effect until after the appeal period or, if an appeal is lodged, until after the appeal is disposed of.

Representations received

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

3.7 One representation has been received from the Licensing and Trading Standard's Authority on the grounds of the Protection of Children from Harm, Prevention of Public Nuisance, Prevention of Crime and Disorder and Public Safety supporting the application submitted by Sussex Police seeking the revocation of the licence.

3.8 Full details of the representation is attached at Appendix C. A map detailing the location of the premises is attached at Appendix D.

4. COMMENTARY ON THE LICENSING POLICY

4.1 The following extracts from Brighton & Hove City Council Statement of Licensing Policy are considered relevant to this application and **are numbered as they appear in the policy**:

1. Introduction

1.1

This Statement of Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 (the Act) and having regard to Guidance issued by the Home Office under Section 182 of the act. This policy takes effect from 4 February 2021. The

licensing authority is Brighton & Hove City Council. The purpose of this statement is to promote the licensing objectives and set out a general approach to making licensing decisions. The discretion of the licensing authority in relation to applications under the act is only engaged if 'relevant representations' are made by other persons or responsible authorities. This policy will inform the approach to be taken when deciding applications and imposing conditions when relevant representations are received. It is also intended as a guide for applicants as to what to include in their operating schedules, always recognising that if no representations are received, the application must be granted. The licensing authority must carry out its functions with a view to promoting the licensing objectives and this policy is framed around those objectives. Each application will be given individual consideration on its merit. The scope of this policy covers the following:

- Retail sales of alcohol;
- The supply of alcohol by or on behalf of a club, or to the order of, a member of the club; The provision of regulated entertainment;
- The provision of late night refreshment.

1.1 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 Scope

1.3.1 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations; i.e. the premises and its vicinity. 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.

3.3 The Matrix Approach

The Licensing Authority will support:

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

same time may create opportunities for violent crime and public disorder and therefore supports mixed use venues encouraging a wider age balance.

3.3.2 A “matrix” approach to licensing decisions has been adopted and is set out below. It provides a framework of what the licensing authority would like to see within its area and gives an indication of the likelihood of success or otherwise to investor and businesses making applications.

Matrix approach for licensing decisions in a Statement of Licensing Policy (times relates to licensable activities)

Matrix approach for licensing decisions in a Statement of Licensing Policy

	Cumulative Impact Area	Special Stress Area	Other Areas
Restaurant	Yes (midnight)	Yes (midnight)	Yes (midnight)
Café	Yes (10 pm)	Yes (10 pm)	Yes (10 pm)
Late Night Takeaways	No	Yes (midnight)	Yes (midnight)
Night Club	No	No	No
Pub	No	Yes (11pm)	Yes (midnight)
Non-alcohol lead (e.g. Theatre)	Yes (favourable)	Yes (favourable)	Yes (favourable)
Off-licence	No	No	Yes (Up to 11pm but if in densely residential area may be earlier – see note 7 below)
Members Club (club premises certificate)	Yes (<100 capacity) (11pm)	Yes (<100 capacity) (11pm)	Yes

Notes on matrix

Subject to the following notes, the policy, as represented in the matrix, will be strictly adhered to:

1. Each application will be considered on individual merit
2. Applications within the CIZ are subject to the special policy on cumulative impact at para 3.1, and those within the special stress area to the special stress policy considerations at para 3.2.

3. Departure from the matrix policy is expected only in exceptional circumstances
4. Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix.
5. Exceptional circumstances may include: consultation with and meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to offset impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary to business activity (demonstrable to responsible authorities and licensing authority, for instance by licence condition allowing authorised officers access to sales accounts).
6. The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community based street parties, members clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre.
7. Other Areas; consideration will be given to the nature of the area and location in relation to any application. In a residential area for example the concerns of local residents will be relevant when considering applications for off-licences, pubs or cafes, especially if there is evidence of anti-social behaviour, street drinking or underage drinking. Earlier closing times may be appropriate. Regard will be had to the Public Health Framework for assessing alcohol licensing on our website www.brighton-hove.gov.uk/licensingact.
8. In an area where there are already several existing off-licences or where the premises is situated within a parade with another off licence and where representations are received about negative cumulative impact on the licensing objectives of a further premises, the application may be refused on these grounds or restrictions placed on the terminal hour to reflect opening hours of other shops.
9. Outdoor events will be supported where arranged through the council's event planning process. Generally, regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The licensing authority will have regard to Noise Council guidance.
10. Non-alcohol led category does not include "alcohol in shared workplaces". It is recommended that sale of alcohol in shared workspaces should have a terminal hour of no later than 10pm. For further advice and guidance on "alcohol in shared workplaces" please see paragraph 3.3.4-3.3.6.

4 Prevention of Crime and Disorder

The following details and measures are intended to address the need for the prevention of crime and disorder which may be associated with licensed premises and certificated club premises. Conditions attached to licences and certificates will, as far as possible, reflect local crime reduction strategies.

4.1.1 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority expects that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door supervisors so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of

basic child protection. It is the duty of the designated premises supervisor (DPS) to train staff on induction concerning conditions on their premises licence.

4.1.2 It is expected that the DPS will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises and that staff are authorised by the DPS.

4.1.3 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.

4.1.4 Measures put in place should support the intentions of Operation Marble (police operational order), which aims to prevent incidents of crime and disorder within the night time economy, at weekends. Operation Marble operates with a view to minimising the risk to the public of being a victim of public place violent crime; to reduce incidents of violent crime and public disorder within the city centre; to deal positively with offences and offenders; to secure and preserve evidence which will assist in the prosecution of offenders and to support the night time economy and the responsibly run businesses within it.

4.2 Sussex Police

4.2.1 Sussex Police have a specific Operation relating to the night time economy called Operation Marble (detailed in 3.4.1) and work closely with partners to ensure a safe and vibrant city centre. There continues to be an increasing demand for resources further into the early hours of the morning with the highest concentration of crimes occurring between 21:00 and 06:00 on a Friday into a Saturday and between 20:00 and 06:00 on a Saturday night into a Sunday. The data set used shows that up to 80% of arrests made in the timeframe 20:00 – 06:00 on these days were affected by alcohol. For full details of these statistics see the Cumulative Impact Assessment at Appendix E.

4.2.2 The dealing and use of drugs remains an issue across the city and Sussex Police welcome proactive policies from licensed premises. A drug safe and seizure recording initiative is in place of which further details can be obtained by contacting Brighton & Hove Police Licensing (brighton.licensing@sussex.pnn.police.uk). This initiative encourages licensed premises with Door Supervisors to search and seize drugs from persons attempting to enter their premises and ensures that once drugs are removed from persons, they can be safely collected and destroyed by Sussex Police.

4.2.3 Dispersal from the city centre during the late evening and early morning remains a policing challenge. Over recent years, there has been a proliferation of off-licences and late night refreshment venues along the city's arterial routes. This has led to incident 'hot spots' where patrons from the night time economy continue to interact, albeit away from any safety measures afforded by on-licences. As such, Sussex Police support the Council's Special Policy in offering guidance to both applicants and the Licensing Committee in relation to off-licences and late night refreshment licences.

4.2.4 Sussex Police have continuing concerns that, despite staff training in age-restricted sales, under age individuals are still being served alcohol both on and off the premises in some of the city's licensed premises. As such, regular intelligence-led 'test-purchase' operations are conducted to highlight premises where sales are taking place and ensure appropriate enforcement action is taken to prevent further sales. The

introduction of identification scanning machines at premises throughout the city has proved successful in mitigating some risk, but operators must maintain vigilance regarding the fraudulent use of genuine IDs. Sussex Police continue to work alongside the Business Crime Reduction Partnership to tackle the problem of those who use false or another's identification to enter licensed premises and purchase alcohol.

4.2.5 Sussex Police work closely with venues and other organisations within the city to protect vulnerable people from becoming victims of crime. As well as work to prevent under age sales, vulnerability training is offered to identify persons who may have been made vulnerable through alcohol or drugs. Sussex Police also support initiatives such as (but not limited to) safe spaces, mobile teams of volunteers actively checking people's well-being and the Beach Patrol.

4.2.6 Public Space Protection Orders have proved an effective tool for Sussex Police in targeting enforcement action in problem areas of the city. It 'allows Police Officers and Police Community Support Officers to remove alcohol from any person in a public place if that person is involved in anti-social behaviour (ASB) or the officer believes that by having alcohol in their possession there is an increased risk of ASB. It is an offence to refuse to hand over alcohol when required to do so.' They have been particularly effective in the day time economy where members of the street community are causing ASB issues for members of the public and local businesses, especially during the summer months where there is a large influx of visitors to Brighton & Hove.

4.2.7 Policing the night time economy continues to provide a challenge and in the climate of limited resources and newly emerging problems, Sussex Police support maintaining the council's Special Policy which defines cumulative impact and special stress and will continue to take enforcement action where appropriate if the actions of a Premises Licence Holder, Designated Premises Supervisor, Door Supervisors or Staff have fallen below the high standard expected across the city. Sussex Police also recognise and support businesses which are aware of their social responsibilities and as such, actively contribute towards keeping Brighton & Hove a safe and enjoyable city.

4.3 Care, control and supervision of premises

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

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

4.3.3 Following the grant of a licence, the management and supervision of the premises, in so far as it might impact on crime and disorder, will continue to be monitored. Particular attention will be paid to any licensed premises where there is evidence of criminal activity or any association with racist or homophobic crime. The licensing authority will keep itself well briefed on the nature, location and type of premises where alcohol related violence and disorder are occurring so it can take full account of the facts and avoid exacerbating problems as required by the Community Safety Strategy. Where licensed premises are found to cause nuisance or be associated with disorder or unreasonable disturbance, the review process may be invoked, and powers of revocation or the imposition of conditions may be considered. Conditions may include use of closed-circuit television, licensed door supervisors and earlier closing times. Such action to restrict the operation may be taken for trial periods to allow businesses an opportunity to remedy existing disorder, nuisance or disturbance.

4.3.4 This policy recognises the use of registered Door Supervisors All Door Supervisors will be licensed by the Security Industry Authority. Mobile security units and similar systems are in use by some premises operators as a means of providing security cover at very short notice at premises which may not normally require a permanent security presence. This policy endorses the use of units following such guidance and standards in appropriate circumstances.

4.3.5 The development of codes of practice and general operating standards for security companies is encouraged for local businesses; premises operators are urged to ensure that security services, when engaged, are provided by suitably qualified businesses operating to recognised standards and who should be working towards SIA accreditation.

4.3.6 Enforcement will be achieved by the enforcement policy appended (Appendix B of SoLP).

5 Public Safety

The following details and measures are intended to address the need for the protection of public safety which may be associated with licensed premises and certificated club premises.

5.1.1 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.

5.1.2 Normally in the city centre, pubs and clubs will be expected to operate using polycarbonate or toughened/shatterproof glass.

5.1.3 Conditions may be imposed in accordance with operating schedules to protect public safety including where justified:

- a. provision of closed-circuit television and panic buttons.
- b. use of shatterproof drinking vessels; bottles requiring use of toughened glass or plastic should normally be required unless applicants can show exceptional reasons.
- c. use of door supervisors, licensed by the Security Industry Authority.
- d. requirement of a minimum of a licensed door supervisor for every 100 customers in nightclubs and large city centre pubs or as indicated by risk assessment.
- e. occupant capacity conditions will be applied where appropriate.
- f. the provision of designated and suitably trained first aiders.

5.1.4 Where appropriate, licence holders or their authorised representatives will submit event safety plans and operating manuals, attend Event Planning Teams or Safety Advisory Groups and similar meetings prior to large events and shall be part of Event Liaison Teams during such events. Due regard shall be had to relevant guidance and publications including, for example: HSE approved code of practice for events.

6 Prevention of Public Nuisance

The following details and measures are intended to address the need for the prevention of public nuisance which may be associated with licensed premises and certificated club premises:

6.1.1 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, 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).

6.1.2 Applications for new licences or for the extension in size of licensed premises should not normally be granted if the premises will use amplified or live music and operate within or abutting premises containing residential accommodation except that occupied by staff of the licensed premises. A condition may be imposed on new licences that entertainment noise shall be inaudible in any residence. Noise emanating from within licensed premises should not normally be audible outside.

6.1.3 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.

6.1.4 Generally, regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The Licensing Authority will have regard to Noise Council guidance.

6.1.5 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.

6.1.6 Reasonable controls are available to all premises operators to minimise the impact of noise from customers outside. The council's Environmental Health Department has issued guidance on a number of steps that can be taken in this respect which are endorsed by this policy (see 6.2 below).

6.2 Smoking Advice

6.2.1 Premises licence holders will be expected to:

Develop a management plan on how to manage smoking on their premises and ensure that all staff are aware of the contents of this plan, and that it is effectively implemented. Noise from people smoking and talking can be intermittent, vary in character and volume and be intrusive. An effective smoking management plan will help prevent neighbours being disturbed.

- Comply with any planning conditions restricting the use of outdoor areas.
- Ensure that any structures used by smokers comply with the design criteria detailed in the Heath Act 2006 and that any structures, awnings, retractable canopies, etc have the relevant planning permission.
- Ensure any new lighting to outdoor areas must be designed so as not to cause a light nuisance to neighbours and again have the relevant planning permission and building control consent.
- Ensure that the conditions on the premises licence are complied with. There may be conditions restricting the hours of use of gardens and outdoor areas. Having reviewed the contents of the premises licence it may be necessary to request a variation of your licence.
- Licence tables and chairs on the Public Highway under the provisions of the Highways Act 1980. These licences may have conditions restricting the times that the area can be used.
- Ensure drinks, glasses and bottles are not taken onto the highway unless there is a tables and chairs licence permitting use. A system should be adopted to prevent theft and 'spiking' of drinks, and reminding customers not to leave unattended items.
- Discourage smokers remaining in gardens and outdoor areas and determine terminal hours.
- Discourage smokers remaining outside by removing/disabling tables and chairs or prohibiting their use after a certain time. Lights and heaters will also be turned off.
- Introduce a system that after a certain time the number of smokers outside are restricted to a maximum number. Staff will be needed to manage this restriction.
- Employ staff and/or SIA registered door supervisors to manage doors and control customers and smokers entering and leaving the premises. Staff positioned on the doors can help to encourage customers not to cause a noise problem. It may be that staff are required to manage doors after a certain time, particularly during the hours when neighbouring residents are trying to sleep.
- Ensure door supervisors maintain order outside venues and protect customer safety. BCRP supports the use of Night Safe. Radio net and other pager systems and pub watch schemes can be used to provide for rapid police response and alert other venues where customers and staff are endangered.
- Position signs to remind customers that the premises is in an area where people live. It is not always obvious in busy commercial streets with flats above. By

changing the design and wording of signs customers do not forget. Signs can be located in and outside the premises and on tables.

- Use CCTV to manage outside areas.

6.2.2 Licensed premises should normally display prominent, legible signs at exits reminding customers to leave in a quiet, peaceful, orderly manner.

7 Protection of Children from Harm

The following details and measures are intended to address the need for the protection of children from harm; this includes emotional and physical harm which may be associated with licensed premises and certificated club premises (for example the exposure too early to strong language and sexual expletives, e.g. in the context of film exhibitions or where adult entertainment is provided). It is intended that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed without restricting conditions (unless the 2003 Act itself imposes such conditions or there are good reasons to restrict entry or to exclude children completely).

7.1.1 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, 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 (eg passport, photo driving licence or pass card).

7.1.2 It is the licensing authority'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 emotional or psychological harm to them. Each application will be considered on its own merit but particular areas that will give rise to concern in respect of children are to be found in section 7.1.4 below.

7.1.3 To reduce alcohol-induced problematic behaviour by under 18 year olds, to enforce underage purchase and drinking laws and to assist in the protection of children from harm, the licensing authority supports the following measures:-

- a. Police should exercise powers (Confiscation of Alcohol (Young Persons) Act 1997) to remove alcohol from young people on the street
- b. Police and trading standards should implement test purchasing to reduce sales to under 18s in on and off sales licensed premises
- c. Further take-up of proof of age schemes will be promoted
- d. In-house, mystery shopper type schemes operated by local businesses will be supported
- e. Providers of events specifically catering for unaccompanied children should consider whether all staff at such events need to be DBS checked

7.1.4 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.

7.1.7 Trading standards and the police undertake ongoing enforcement operations around under-age sales and test purchasing. Sussex Police and BCRP undertake work concerning proxy purchases and counterfeit ID as part of the partnership support work with Community Safety and Trading Standards.

7.1.8 Trading standards have a programme of business support including training for local businesses to avoid under-age sales.

8 Integration of Strategies

8.1.1 The licensing authority shall secure the proper integration of this policy with local crime prevention, planning policy, transport, tourism and cultural strategies by:-

- Liaising and consulting with the Sussex Police, Community Safety Forum, Sustainability Commission representatives and following the guidance in community safety and crime and disorder strategy
- Liaising and consulting with Public and Alcohol Programme Board
- Liaising and consulting with the East Sussex Fire & Rescue Service
- Liaising and consulting with the Local Strategic Partnership, Safety Advisory Group (Emergency Planning) and Equalities and Social Justice Consultation Forum
- Liaising and consulting with the Planning authority
- Liaising and consulting with the Highways authority
- Liaising and consulting with local business and business associations. Having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols
- Liaising and consulting with the Trading Standards Team, for example with regard to test purchasing codes of practice

8.1.2 In line with statutory requirements and the council's Inclusion Policy, the Licensing Authority shall have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and positive relations between persons of diverse backgrounds, for example communities of interest such as: lesbian, gay, bisexual and

transgender people; disabled people; racial and ethnic groups; religious and faith groups.

8.1.3 This policy supports the aims of the tourism strategy, recognising the benefits for the tourism economy of creating a safer and more attractive city centre and improving competitiveness with other European cities. The Licensing Committee should receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area to ensure that it considers these matters.

8.1.4 The Licensing Committee should receive relevant information relating to the employment situation of the area and the need for new investment and employment where appropriate.

8.1.5 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include the use of closed circuit television cameras, use of the NightSafe radio system or accredited scheme, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening. Certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements listed above.

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

8.2 Other regulatory regimes

8.2.1 This policy avoids duplication with other regulatory regimes wherever possible. The following notes are made with regard to specific regimes:

Health and Safety

Certain premises will be the subject of health and safety enforcement by the local authority or the Health and Safety Executive (HSE). If other existing law already places certain statutory responsibilities on an employer or operator of premises, for example the Management of Health and Safety at Work Regulations 1999, it will not be necessary to impose the same or similar duties on the premises licence holder or club. However, existing duties will not always adequately cover specific issues that arise on the premises in connection with, for example, certain types of entertainment, and where additional and supplementary measures are necessary to promote the licensing objectives, necessary, proportionate conditions will need to be attached to a licence.

Fire Safety

Premises and their operators will be regulated by general duties under current fire safety regimes and the Regulatory Reform (Fire Safety) Order 2005 rather than licensing provisions.

Noise

Statutory and public nuisances are dealt with by the local authority's Environmental Health department under the Environmental Protection Act 1990, Noise Act 1996 and

associated legislation. Noise from commercial premises may often fall under review powers set out in licensing provisions and closure powers in anti-social behaviour provisions.

Equality Act 2010

The Public Sector Equality Duty obliges public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between persons who share protected characteristics and persons who do not share it. The local authority's equality and inclusion policy produced under these obligations shall include reference to this statement of licensing policy.

Community relations

Integration of corporate strategies with licensing policy will include the Inclusive Council Policy which recognises the council's role, as a community leader, to promote community cohesion and good relations between diverse communities. Measures to address prevention of crime and disorder recognise the need to improve wellbeing and safety of all the communities in the city. Licensing policy supports the Crime and Disorder Reduction Partnership's crime reduction strategy. In particular it seeks to confront and reduce racist, homophobic, transphobic and religiously motivated crimes, incidents and anti-social behaviour.

Anti-Social Behaviour, Crime and Policing Act 2014

Contains powers to close premises that are causing nuisance or disorder. These powers can be exercised by the council or Police and they replace the closure powers in the Licensing Act 2003. The Act also contains powers to issue Community Protection Notices in respect of persons or businesses committing anti-social behaviour which is spoiling a community's quality of life.

Litter and Smoking

CityClean contractors have Clean Neighbourhoods powers to enforce premises operators' responsibilities to keep frontages clear of litter.

Gambling Act 2005

In relation to casinos and bingo clubs, the principal purpose is gaming. The sale of alcohol and the provision of entertainment in such premises is incidental to gaming and in determining whether to permit entertainment that constitutes regulated entertainment under the act, gaming license committees and / or the Gambling Commission will have taken into account relevant government guidance. Accordingly, it is felt that the licensing objectives will have been, or will be in the main, adequately considered by such committees and duplication of conditions should be avoided when considering applications under the 2003 Act where relevant representations have been made.

8.3 Enforcement

8.3.1 The Enforcement of licensing law and inspection of licensed premises is detailed in the Protocol between Sussex Police, the East Sussex Fire & Rescue Service and

Brighton & Hove City Council. This protocol reflects the need for more efficient deployment of Police and Local Authority staff commonly engaged in licensing enforcement and can be found at Appendix D (Lead Agency Status) of the Statement of Licensing Policy. In addition, the Licensing Authority will have regard to its published Licensing Enforcement Policy in making enforcement decisions in accordance with Brighton & Hove City Council's Statement of Licensing Policy (Appendix B). In order to better target enforcement resources, inspections will be undertaken outside of normal office hours and the sharing of information between all enforcement agencies will be encouraged through joint meetings or similar arrangements.

8.3.2 Attention is drawn to the targeting of agreed problem and high risk premises requiring greater attention as identified in the protocol. A number of other council and government policies, strategies and guidance documents must be taken into account to complement the policy, including:

- Community Safety & Crime Reduction Strategy
- Drugs and alcohol strategies – local alcohol harm reduction strategy
- Objectives of the Security Industry Authority
- The Anti-Social Behaviour Act 2003/ASBPC Act 2014
- The Health Act 2006
- The Violent Crime Reduction Act 2006
- Policing and Crime Act 2009

9 Reviews

9.1.1 Reviews represent a key protection for the community. Where the licensing authority considers action necessary under its statutory powers it will take necessary steps to support the licensing objectives. Action following review will be informed by licensing enforcement policy – Appendix B.

9.1.2 Where style of operation of a premises leads to applications concerning likelihood of racist, religiously motivated, homophobic or transphobic crimes or incidents, the review process should also support the community safety policy. Action should be proportionate and licences would normally be suspended or revoked in these circumstances to deter further incidents.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 The Licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime.

Finance Officer Consulted Michael Bentley

Date: 01/12/2022

Legal Implications:

5.2 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: 02/12/2022

Equalities Implications:

- 5.3 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.

Sustainability Implications:

- 5.4 Licensing policy aims to prevent public nuisance and develop culture of live music, dancing and theatre.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A – Part A of Premises Licence
2. Appendix B – Review Application
3. Appendix C – Representation
4. Appendix D – Map of area

Documents in Members' Rooms

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2021.

Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003, April 2018.

Public Health Framework for Assessing Alcohol Licensing – January 2022.

Background Documents

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2021.



Brighton & Hove City Council

Appendix A

Schedule 12 Part A

Regulation 33, 34

Premises Licence Brighton and Hove City Council

Premises Licence Number

1445/3/2021/01152/LAPREN

Part 1 – Premises Details

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

Yelken
109 St James's Street
Brighton
BN2 1TH

Telephone number

Where the licence is time limited the dates

Licensable activities authorised by the licence

Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities

Sale by Retail of Alcohol

Monday-Saturday	12:00 - 23:00	On the premises
Sunday	12:00 - 22:30	On the premises



Brighton & Hove City Council

The opening hours of the premises

Monday - Saturday 09:00 - 23:30
Sunday 10:00 - 23:00

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**

Mr Ali Algun
REDACTED TEXT

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

-

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

REDACTED TEXT

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

REDACTED TEXT



Brighton & Hove City Council

Annex 1 - Mandatory conditions

S 19; mandatory conditions where licence authorises supply of alcohol

1. 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
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence
3. (1) The responsible person must 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-
 - (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 in a manner which carries a significant risk of undermining a licensing objective;
 - (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 in a manner which carries a significant risk of undermining a licensing objective;



Brighton & Hove City Council

(d) 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.

(e) dispensing 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).

4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) 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 either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
6. The responsible person must 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



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(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

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.

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:

(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



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

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.

Annex 2 – Conditions consistent with the Operating Schedule

General:

1. Alcohol will be served by waiter/waitress service to persons seated at tables and ancillary to a main table meal only. There will be no vertical drinking at any time.
2. Authorised staff employed by Sussex Police shall have free access to all parts of the licensed premises at all times licensable activity is taking place or when open to members of the public, for the purpose of inspection to ensure compliance with the terms and conditions of the premises licence and to ensure the promotion of the licensing objectives.

For the Prevention of Crime and Disorder:

Premises Licence Issued 21.05.2021

Page 6 of 10



Brighton & Hove City Council

3.

- (a) Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover the entrances/exits to the premises and the fridges/shelves where alcohol is stored. The system shall be on and recording at all times the premises licence is in operation.
- (b) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
- (c) CCTV footage will be stored for a minimum of 31 days
- (d) 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.
- (e) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
- (f) Subject to GDPR guidance and legislation, 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 (or other electronic portable device acceptable to Sussex Police e.g. USB) for the police without difficulty or delay and without charge to Sussex Police.
- (g) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
- (h) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

4.

- (a) An incident and refusals log will be maintained by the premises showing a detailed note of incidents and refusals that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at intervals of no more than four (4) weeks.



Brighton & Hove City Council

- (b) The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence.
- (c) Feedback shall be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.
- (d) Any refusals made for alcohol service e.g. underage, will be recorded and feedback given to staff as relevant. The log will be kept for a minimum of twenty four (24) months.

For Public Safety: N/A

For the Prevention of Public Nuisance:

5. Notices will be displayed asking all to leave the premises quietly and to have respect for local residents and other premises.

For the Protection of Children from Harm:

- 6.
- (a) The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:
 - * The lawful selling of age restricted products
 - * Refusing the sale of alcohol to a person who is drunk
 - (b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 12 weeks, with the date and time of the verbal reinforcement/refresher training documented.
 - (c) All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.
7. 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



Brighton & Hove City Council

their age. The recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.

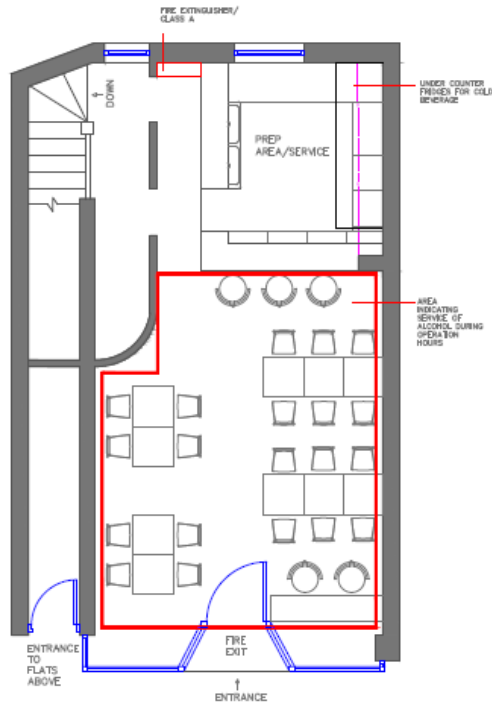
8. Signage advertising the 'Challenge 25' policy will be displayed in prominent locations in the premises.
9. A list of staff members who are authorised to sell alcohol on the premises shall be kept. This shall be endorsed by the DPS with the date such authorisation commences.

Annex 3 – Conditions attached after a hearing by the licensing authority – N/A

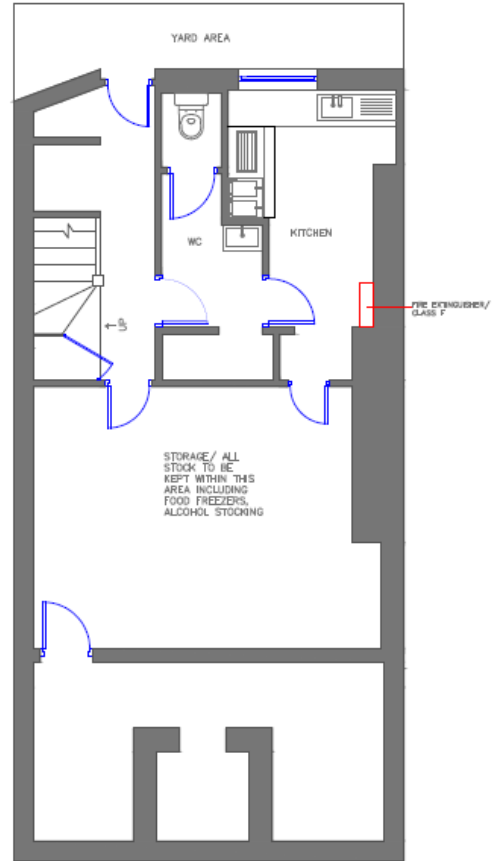
Annex 4 – Plans



Brighton & Hove City Council



PROPOSED GROUND FLOOR PLAN



BASEMENT PLAN

ETAII:
ROPOSED PLANS
WG: SPC_02

SCALE: 1:50 @ A3



109 ST JAMES'S STREET
BRIGHTON BN2 1SF



Appendix B

Application for the review of a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

You may wish to keep a copy of the completed form for your records.

I Chief Supt Justin BURTENSHAW, Divisional Commander, Brighton and Hove Police on behalf of Chief Constable Jo SHINER

(Insert name of applicant)

Apply for the review of a premises licence under Section 51 of the Licensing Act 2003 for the premises described in Part 1 below.

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Yelken, 109 St James' Street, Kemptown	
Post town Brighton	Post code (if known) BN2 1TH

Name of premises licence holder or club holding club premises certificate (if known) Ali Algun
--

Number of premises licence or club premises certificate (if known) 1445/3/2021/01152/LAPREN

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

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

Please tick

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

Surname

First names

Please tick yes

I am 18 years old or over

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

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

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Sussex Police, Brighton & Hove licensing, 1 st floor, police station, John street, Brighton, BN2 OLA
Telephone number (if any) Ext REDACTED
E-mail address (optional) Brighton.licensing@sussex.pnn.police.uk

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

Please tick one or more boxes

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

Please tick yes

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

If yes please state the date of that application

Please state the ground(s) for review

Sussex Police would like to bring the above premises to review following the Brighton and Hove Police Licensing teams visit to this premises on Sunday 7th August 2022 (during Brighton Pride weekend) followed by numerous breaches of the licence. Sussex Police contend that the actions of the premises licence holder/Designated premises supervisor (PLH/DPS) on the 7th of August undermined all the licensing objectives.

Sunday 7th August – Brighton Pride weekend

At 18:07 Sgt Vince Lam entered Yelken wearing Body Worn Video, to his right facing into the premises was a group of customers who were all vertically drinking. They were holding plastic pint glasses containing an alcoholic beverage and drinking a further alcoholic beverage from shot glasses. Please see photo 1 of Appendix A

These customers then leave the premises holding their pints.

At 18:09 PC Bernascone and Licensing officer Hannah Staplehurst entered Yelken, the premises licence holder and Designated premises supervisor Ali Algun was present and asked if he had his premises licence.

We were presented with Part B of the premises licence, the PLH/DPS did not know where his Part A of the premises licence was. We confirmed there was no Temporary Event licence in place on this date.

Hannah Staplehurst asked if the premises was selling alcohol for off sales, the DPS/PLH stated “no off sales were taking place, they down it and leave the premises”

At 18:10 PC Bernascone had the premises licence on his mobile phone and this is discussed with the premises licence holder/ Designated premises supervisor (PLH/DPS). Hannah Staplehurst explains how Customers must be seated when consuming alcohol which should be ancillary to a main meal. Sgt Lam informed the premises licence holder how this premises should be food led. At that exact time Yelken was undoubtedly a drink led venue. Please see Appendix A with attached photos 2,3, and 4. The PLH/DPS disputed the premises looked to be alcohol led. It was explained that we saw the high volume of alcohol from outside therefore members of the public would too.

At 18:11 both Sgt Vince Lam and L/O Hannah Staplehurst advised the premises licence holder/ Designated Premises supervisor to remove the numerous shot glasses, cans of beer and jugs of cocktails from the tables in the middle of the restaurant and place everything in the kitchen area. The tables and chairs needed to be pulled out to ensure the premises was restaurant led as per the premises licence conditions, therefore allowing customers to enter the premises, be seated at a table and purchase food with an alcoholic drink.

At 18:12 Hannah Staplehurst stated the premises licence needs to be adhered to as it should be on a normal day. The PLH/DPS points outside questioning “this isn’t a normal day”. Hannah Staplehurst reminded the PLH/DPS that despite this weekend being Brighton Pride, this does not allow any licensee to sell alcohol as they want, and they must follow their premises licence conditions, as the premises did not have a Temporary Event Notice.

This is when the PLH/DPS refused to listen to our advice stating the tables were to remain as they were, but customers would sit on random chairs at the back of the premises.

L/O Hannah Staplehurst then clarified with the PLH/DPS that he was not going to move his tables and chairs to adhere to the premises licence.

The PLH/DPS’ response was “No, I am not going to remove this” Referring to the tables of alcohol.

As the PLH/DPS refused to work with us and refused to adhere to the premises licence, decision was made by Police Licensing to leave the premises and call a meeting with the PLH/DPS the following week.

At 21:18 while walking through St James’ Street we noticed Yelken was still open, and we witnessed 2 males and a female leave the premises with drinks in open containers.

PC Hancox and Sgt Lam approached the customers who had left the premises to confirm

what they were consuming.

All 3 customers confirmed they were drinking an alcoholic cocktail which they had purchased at Yelken.

Thursday 11th August 2022

At 13:00 the premises licence holder/ designated premises supervisor attended a meeting at John Street Police Station with Sgt Lam and Hannah Staplehurst.

Sgt Lam did an introduction and explained the reason why this meeting had been called - following the breaches which were witnessed on Sunday 7th August during the Sunday PVP at pride.

Sgt Lam ran through the breaches including vertical drinking, off sales and alcohol was served without food.

Sgt Lam asked the DPS for his version of events on this date- The PLH/DPS explained that he had had the restaurant for 10 months, his business partner/ friends advised him it would be busy and to sell alcohol. The PLH/DPS "had no idea" he needed another licence (i.e. a TEN)

Sgt Lam explained what we saw - 9 tables of which the majority were filled with alcohol including vodka shots, cans of beer and jugs of cocktails.

Sgt Lam asked the PLH/DPS if he thinks his behaviour was right? It was admitted he didn't think it was right, he thought he could sell alcohol and have it all on display.

The PLH/DPS then asked us, how much alcohol he could have on display.

Hannah explained the restaurant style conditions and how Waiter/ess service was required so no alcohol should be on 'display'

Hannah expanded further and explained the conditions on Yelken's premises licence, but the PLH/DPS failed to engage so Sgt Lam took over and ran through all the conditions on the licence. Please see Appendix B – Premises licence.

During the meeting we were informed:-

Condition 3 – CCTV was all in order.

Condition 4 – Refusals and incident log, Ali stated this was not being adhered to. Hannah organised for Trading Standards to send a BHCC Incident and refusals log to the premises.

Condition 5 – Notices – Currently not on display.

Condition 6 – It was stated all staff were trained and it was documented.

Condition 7 and 8 - Challenge 25 – It was stated no signage was on display but they followed Challenge 25.

The Bodyworn video footage from pride was shown (as detailed above)

Vince asked the PLH/DPS what happened after we left the premises at approximately 18:15– we were informed that his business stopped, and all customers had to sit with a sandwich and no alcohol was sold.

Vince asked the PLH/DPS to be honest with us and asked again what happened following our visit.

Again it was stated all sales of alcohol were as per the premises licence.

The second body worn video was shown timed 21:18 of 3 people leaving the premises with pints of Pornstar martini.

The PLH/DPS declared he was not aware of this sale.

Vince gave Words of advice to the PLH/DPS to ensure his licence is being adhered to in the future as we will be conducting a premises visit. Hannah Staplehurst organised for training logs, refusal books and challenge 25 signage to be sent to the premises.

A breach letter was issued at the end of the meeting – Please see Appendix C.

Friday 9th September 2022

PC Hancox and Hannah Staplehurst visited the premises to conduct a full licence check.

Initially the DPS was not present, but we waited for them to return and once again PC Hancox had to run through the entire licence explaining all the conditions.

During the visit there were numerous breaches, and a further breach letter has been issued

by PC Hancox. Please see Appendix D.

Sussex Police Licensing have allowed 1 month for the PLH/DPS to contact us to evidence the missing CCTV and provide evidence that these breaches have been rectified.

However, during this time there has been no communication received from the PLH/DPS at all.

This Premises licence was only issued on the 21st of May 2021, the fact that Sussex Police Licensing have witnessed and recorded these breaches in this relatively short period of time is a cause for concern.

Sussex Police have no confidence in the PLH/DPS to operate a licensed premises responsibility and in accordance with their premises licence conditions. We also have no confidence that the PLH/DPS will work with the responsible authorities.

Alongside the breaches at pride and the complete refusal to adhere to the premises licence once it had been explained is a huge cause for concern. Sussex Police contend that all of the licensing objectives have been significantly undermined by the PLH/DPS in their refusal to adhere to the premises licence during the one of the largest events in the Brighton and Hove City Centre and thereafter.

The fact there are continuing numerous breaches of the premises licence, Sussex Police feel that adding any further conditions will not assist the PLH/DPS to adhere to the premises licence and work with a responsible authority. As the DPS is also the PLH, Sussex Police do not feel a change of DPS will be of any benefit as the PLH will have control over the premises licence.

Therefore, the recommendation of Sussex Police would be the revocation of the premises licence.

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

N/A

Please tick yes

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

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

Part 3 – Signatures (please read guidance note 3)

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

Signature (on behalf of the applicant)

REDACTED

Insp M.Palmer- Harris

Date 20th October 2022.

Capacity Operations, Planning and Licensing Inspector

Force Licensing & Public Safety Manager on behalf of Chief Superintendent,
Divisional Commander, Brighton & Hove Division

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) FAO Insp M.Palmer-Harris/ H. Staplehurst Prevention Licensing Team John Street,	
Post town Brighton	Post Code BN2 0LA
Telephone number (if any) 01273 404 535 Ext REDACTED	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) Brighton.licensing@sussex.pnn.police.uk	

Notes for Guidance

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

APPENDIX B1
(POLICE REVIEW
APPENDIX A
Photos)

Photo 1

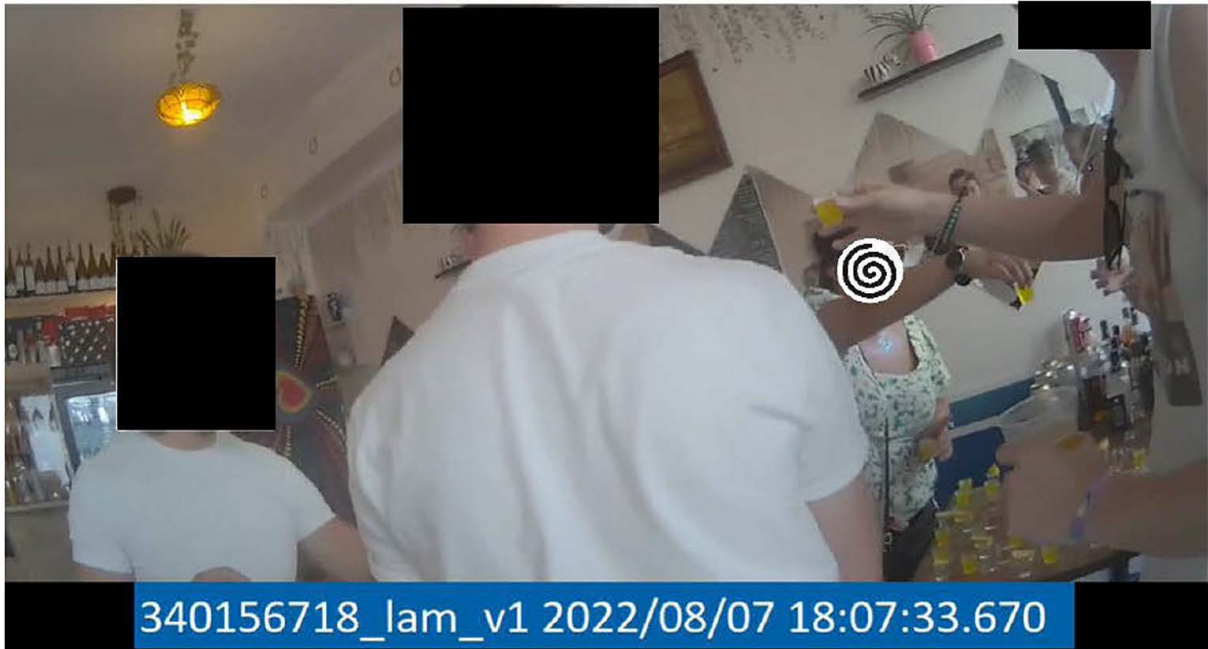


Photo 2



Photo 3



Photo 4





Brighton & Hove City Council

APPENDIX B2 **(POLICE REVIEW** **APPENDIX B)**

Schedule 12 **Part A**

Regulation 33, 34

Premises Licence **Brighton and Hove City Council**

Premises Licence Number

1445/3/2021/01152/LAPREN

Part 1 – Premises Details

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

Yelken
109 St James's Street
Brighton
BN2 1TH

Telephone number

Where the licence is time limited the dates

Licensable activities authorised by the licence

Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities

Sale by Retail of Alcohol

Monday-Saturday 12:00 - 23:00 On the premises
Sunday 12:00 - 22:30 On the premises



Brighton & Hove City Council

The opening hours of the premises

Monday - Saturday 09:00 - 23:30
Sunday 10:00 - 23:00

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

Mr Ali Algun
REDACTED

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

-

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

REDACTED

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

REDACTED



Brighton & Hove City Council

Annex 1 - Mandatory conditions

S 19; mandatory conditions where licence authorises supply of alcohol

1. 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
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence
3. (1) The responsible person must 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-
 - (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 in a manner which carries a significant risk of undermining a licensing objective;
 - (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 in a manner which carries a significant risk of undermining a licensing objective;



Brighton & Hove City Council

(d) 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.

(e) dispensing 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).

4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) 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 either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
6. The responsible person must 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



Brighton & Hove City Council

- (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

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.
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:
 - (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



Brighton & Hove City Council

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

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.

Annex 2 – Conditions consistent with the Operating Schedule

General:

1. Alcohol will be served by waiter/waitress service to persons seated at tables and ancillary to a main table meal only. There will be no vertical drinking at any time.
2. Authorised staff employed by Sussex Police shall have free access to all parts of the licensed premises at all times licensable activity is taking place or when open to members of the public, for the purpose of inspection to ensure compliance with the terms and conditions of the premises licence and to ensure the promotion of the licensing objectives.

For the Prevention of Crime and Disorder:

Premises Licence Issued 21.05.2021

Page 6 of 10



Brighton & Hove City Council

3.

- (a) Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover the entrances/exits to the premises and the fridges/shelves where alcohol is stored. The system shall be on and recording at all times the premises licence is in operation.
- (b) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
- (c) CCTV footage will be stored for a minimum of 31 days
- (d) 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.
- (e) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
- (f) Subject to GDPR guidance and legislation, 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 (or other electronic portable device acceptable to Sussex Police e.g. USB) for the police without difficulty or delay and without charge to Sussex Police.
- (g) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
- (h) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

4.

- (a) An incident and refusals log will be maintained by the premises showing a detailed note of incidents and refusals that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at intervals of no more than four (4) weeks.



Brighton & Hove City Council

- (b) The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence.
- (c) Feedback shall be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.
- (d) Any refusals made for alcohol service e.g. underage, will be recorded and feedback given to staff as relevant. The log will be kept for a minimum of twenty four (24) months.

For Public Safety: N/A

For the Prevention of Public Nuisance:

5. Notices will be displayed asking all to leave the premises quietly and to have respect for local residents and other premises.

For the Protection of Children from Harm:

- 6.
- (a) The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:
 - * The lawful selling of age restricted products
 - * Refusing the sale of alcohol to a person who is drunk
 - (b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 12 weeks, with the date and time of the verbal reinforcement/refresher training documented.
 - (c) All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.
7. 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



Brighton & Hove City Council

their age. The recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.

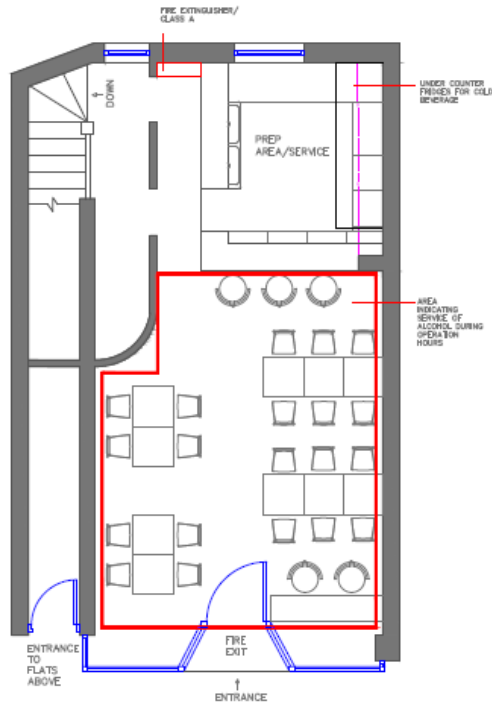
8. Signage advertising the 'Challenge 25' policy will be displayed in prominent locations in the premises.
9. A list of staff members who are authorised to sell alcohol on the premises shall be kept. This shall be endorsed by the DPS with the date such authorisation commences.

Annex 3 – Conditions attached after a hearing by the licensing authority – N/A

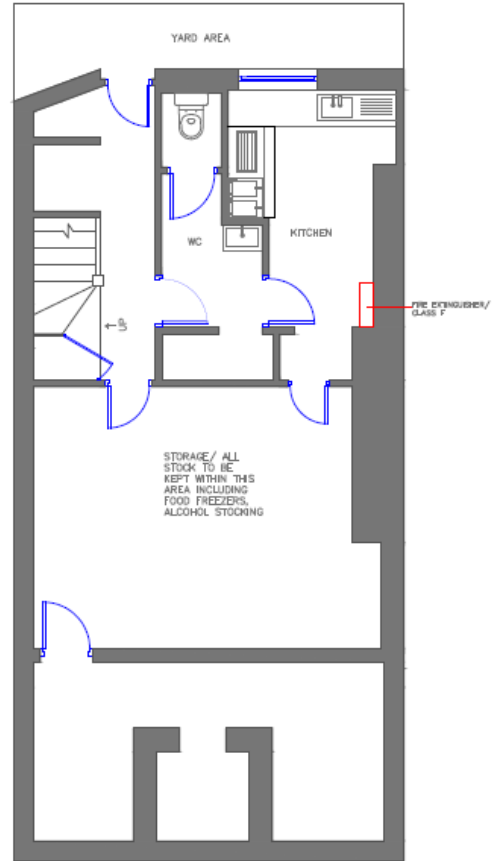
Annex 4 – Plans



Brighton & Hove City Council



PROPOSED GROUND FLOOR PLAN



BASEMENT PLAN

ETAII:
ROPOSED PLANS
WG: SPC_02

SCALE: 1:50 @ A3



109 ST JAMES'S STREET
BRIGHTON BN2 1SF





Sussex Police
Serving Sussex

www.sussex.police.uk

Brighton & Hove Licensing Unit

Police Station
John Street
Brighton
BN2 0LA

Tel: 01273 404535 ext **REDACTED**

Email: brighton.licensing@sussex.police.uk

APPENDIX B3
(POLICE REVIEW
APPENDIX C)

11th August 2022

Mr Ali Algun
Yelken,
109 St James's Street,
Brighton,
East Sussex,
BN2 1TH

Dear Mr Algun,

Licensing Act 2003 – Unauthorised licensable activities
RE: Yelken, 109 St James's Street, Brighton, East Sussex, Bn2 1TH.

Our records show that you are both the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) for the above premises. I write with reference to the above premises where Police Licensing visited during the citywide Pride event (5th – 7th August 2022).

As part of this visit it was identified that you were selling alcohol for consumption 'off' the premises, allowing vertical drinking and for alcohol to be consumed not ancillary to a main meal which your premises licence **does not** permit. There was no Temporary Event Notice in place and there was no statement (known as a Section 172F statement) to show that you had notified Brighton & Hove City Council Licensing that you were taking advantage of temporary permissions under the Business and Planning Act 2020.

Sussex Police Headquarters
Malling House, Church Lane, Lewes, E. Sussex, BN7 2DZ

Telephone: 101 | 01273 404535

Email: brighton.licensing@sussex.pnn.police.uk

In addition to this, I would like to highlight the following breaches of the licence conditions:

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

Alcohol is supplied for consumption *on the Premises*.

Because there was no authority in place permitting 'off' sales of alcohol e.g. a TEN or Section 172F Statement, the above were therefore not being complied with.

- Part A of the licence was not fully available on the day of the visit.
- Part B was not correctly on display.

- **Annex 2 – Conditions consistent with the Operating Schedule**

General

1. **Alcohol will be served by waiter/waitress service to persons seated at tables and ancillary to a main table meal only. There will be no vertical drinking at any time.**

I have to advise you that it is an offence under Licensing Act 2003, S136(1) and (4) to carry on unauthorised licensable activities. The legislation states that:-

(1) A person commits an offence if –

- (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or*
- (b) he knowingly allows a licensable activity to be carried on.*

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine, or to both.

The highlighted breaches constitute an offence of carrying on licensable activity otherwise than under and in accordance with an authorisation (the premises licence and the attached conditions). This letter acts as a formal written warning, however further enforcement action is being considered and you will be notified in due course.

A record of these events will be placed on the premises file and will be taken into account when Sussex Police consider any future applications or events that may relate to the premises.

I must also advise you that any further breaches of your licence may mean further enforcement action is taken, which could include a Review of your licence.

If there are any matters within this letter that you wish to discuss then please do not hesitate to contact us on the phone number or email address above.

Yours sincerely,

REDACTED

Sgt Mark Redbourn
Police Licensing
Local Policing Support Team
Brighton & Hove

cc. Paper copy to Mr Ali Algun (Joint PLH and DPS – Hand delivered)
Brighton & Hove City Council Licensing Team (via email)



Sussex Police
Serving Sussex

www.sussex.police.uk

Brighton & Hove Licensing Unit

Police Station
John Street
Brighton
BN2 0LA

Tel: 01273 404535 ext. **REDACTED**

Email: brighton.licensing@sussex.police.uk

APPENDIX B4 **(POLICE REVIEW** **APPENDIX D)**

09/09/2022

Ali Algun

REDACTED

Dear Mr Algun

Licensing Act 2003 – Unauthorised licensable activities.

RE: Yelken, 109 St James Street Brighton BN2 1TH

Our records show that you are the Holder of the Premises Licence and Designated Premise Supervisor I write with reference to the above premises where Police Licensing conducted a visit on 09/09/2022. As part of the licensing check I would like to highlight the following breaches of the licence:

For the Prevention of Crime and Disorder:

- (a) Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover the entrances/exits to the premises and the fridges/shelves where alcohol is stored. The system shall be on and recording at all times the premises licence is in operation.
- (b) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
- (c) CCTV footage will be stored for a minimum of 31 days

Sussex Police Headquarters
Malling House, Church Lane, Lewes, E. Sussex, BN7 2DZ

Telephone: 101 | 01273 470101

Email: brighton.licensing@sussex.pnn.police.uk

- (d) 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.
- (e) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
- (f) Subject to GDPR guidance and legislation, 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 (or other electronic portable device acceptable to Sussex Police e.g. USB) for the police without difficulty or delay and without charge to Sussex Police.
- (g) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
- (h) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

In the first instance the CCTV was approximately 20 minutes slow, the CCTV didn't cover the internal seating area in its entirety, and you were unable to show 31 days' worth of CCTV or any previous days.

For the Prevention of Public Nuisance:

Notices will be displayed asking all to leave the premises quietly and to have respect for local residents and other premises.

You had one note which was in a totally inappropriate position- they need to be in a prominent relevant position as discussed.

For the Protection of Children from Harm:

- (a) The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:
 - * The lawful selling of age restricted products
 - * Refusing the sale of alcohol to a person who is drunk
- (b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 12 weeks, with the date and time of the verbal reinforcement/refresher training documented.
- (c) All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.

There was no documented initial or refresher training, you had received the training manual from the council but had made no effort to utilise it.

- 7. 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 recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet

8. feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.
9. Signage advertising the 'Challenge 25' policy will be displayed in prominent locations in the premises.

There was 1 CH25 poster on the side wall partially hidden by a plant- this poster needs to be in a relevant prominent position as discussed.

I remind you that non-compliance with licence permissions and conditions constitutes a breach of the Premises Licence issued under the above legislation. Please ensure that all conditions on the licence are adhered to. It is an offence under the Licensing Act 2003, S136(1) and (4) to carry on unauthorised licensable activities. The legislation states that: -

(1) A person commits an offence if –

- (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or*
- (b) he knowingly allows a licensable activity to be carried on.*

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine, or to both.

The highlighted breaches constitute an offence of carrying on licensable activity otherwise than under and in accordance with an authorisation (the premises licence and the attached conditions). Please can you now ensure these breaches are rectified with immediate effect. Police Licensing will conduct a follow up visit within the next few weeks and I must advise you that any further breaches of your licence may mean enforcement action is taken.

Please ensure that both pages of Part B of fully displayed and visible in a prominent position rather than hidden behind a small vase.

You need to ensure that all alcohol is served by waiter/ waitress to persons seated at tables and ancillary to a main table meal only – there should be no service at the bar.

Your incident/refusal log needs to be used and your staff need to be trained in how to use it, it needs to be accessible by staff should you not be there. This book needs to be signed every 4 weeks as per the condition on your licence.

As discussed, you need to make sure you are fully aware of all the conditions on your licence to prevent breaches which can put your licence in jeopardy.

Can you confirm that your home address is that as noted at the top of this letter, I thought you stated your laptop was at home and this was in **REDACTED**

If there are any matters within this letter that you wish to discuss then please do not hesitate to contact us via the email address above.

Yours sincerely,

PC HANCOX DH163
Licensing Police Officer
Brighton & Hove Division

Ms Hardcastle
Licensing Authority
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BN1 1JP

Date: 21 November 2022
Our Ref: 2022/03166/LICREP/EH
Phone: 01273 292494

e-mail: donna.lynsdale@brighton-hove.gov.uk

CH CON ENDS 21.11.2022 VALID PCH, PCD, PPN and PS (A)

Dear Ms Hardcastle

Licensing Act 2003

Representation in support of an application by Sussex Police seeking a review of the Premises Licence: 2022/03670/LAREV for Yelken, 109 St James's Street, Brighton BN2 1TH

I write to make a representation on behalf of the Council's Licensing Team, in their capacity as a responsible authority, in relation to the above application made by Sussex Police seeking to review the Premises Licence for the Yelken, 109 St James's Street, Brighton BN2 1TH.

This representation is made as the Licensing Team have concerns that the licensing objective of the Prevention of Crime and Disorder, Prevention on Public Nuisance, Public Safety and the Protection of Children from Harm are not being upheld.

Following a visit carried out by Police Licensing during the citywide Pride event held between 5-7 August 2022. As part of their visit, they found that the premises were breaching their licence conditions by selling alcohol for consumption 'off' the premises, allowing vertical drinking and for alcohol to be consumed without customers having a meal. On 17 August 2022, I wrote to the premises. A copy of this email is attached as Appendix A.

On 9 September 2022, a further visit was made to the premises, where a full licensing inspection was carried out. On 18 October 2022, I again wrote to the premises. A copy of this email is attached as Appendix B.

To date neither of the emails have been acknowledged or responded to by the Premises Licence Holder.

It is my opinion that the premises are poorly run, there are breaches of the premises licence and the licensing objectives are not being upheld. I have no confidence in the Mr

Algun or any others involved in running of the premises to operate responsibly. I believe if the premises licence remains in place, there will be further problems occurring at the venue.

In the circumstances, I fully support the application of Sussex Police seeking the revocation of the premises licence and consider that this is necessary to ensure that the licensing objectives of the Prevention of Crime and Disorder, Prevention on Public Nuisance, Public Safety and the Protection of Children from Harm are met.

Yours sincerely

REDACTED

Donna Lynsdale
Licensing Officer
Licensing Team

Appendix A – Copy of email sent to premises dated 17 August 2022

Appendix B - Copy of email sent to premises dated 18 October 2022.

Appendix A – Copy of email sent to premises dated 17 August 2022

From: Donna Lynsdale

Sent: 17 August 2022 16:35

To: REDACTED

Cc: Brighton.Licensing@sussex.police.uk

Subject: Yelken, 109 St James's Street, Brighton BN2 1TH - 2022/02298/LICPRM/EH

Importance: High

Dear Ali Algun

Licensing Act 2003 – Unauthorised Licensable Activities

Yelken, 109 St James's Street, Brighton BN2 1TH

Premises Licence Number: 1445/3/2021/01152/LAPREN

I am writing you as the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) for the above premises.

I write following a visit carried out by Police Licensing during the citywide Pride event held between 5-7 August 2022.

As part of their visit they found that you were selling alcohol for consumption 'off' the premises, allowing vertical drinking and for alcohol to be consumed not ancillary to a main meal which your premises licence **DOES NOT** permit. There was no Temporary Event Notice in place and there was no statement (known as a Section 172F statement) to show that you

had notified Brighton & Hove City Council Licensing that you were taking advantage of temporary permissions under the Business and Planning Act 2020.

However, as your premises licence was only granted in May 2021, you do not qualify under the Business and Planning Act 2020 to carry out any 'off-sales'.

Below are their findings and details of breaches of your premises licence conditions:

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

Alcohol is supplied for consumption on the Premises.

- Part A of the licence was not fully available on the day of the visit.
- Part B was not correctly on display.

The holder of the licence must ensure that Part B of the licence, or a certified copy of it, is prominently displayed at the premises. Part A of the licence (with conditions) must be available on request by licensing officers from the council or Sussex Police.

Annex 2 – Conditions consistent with the Operating Schedule

General:

1. Alcohol will be served by waiter/waitress service to persons seated at tables and ancillary to a main table meal only. There will be no vertical drinking at any time.

I remind you that non-compliance with conditions constitutes a breach of the Premises Licence issued under the above legislation. Please ensure that all conditions on the licence are adhered to. It is an offence under the Licensing Act 2003, S136(1) and (4) to carry on unauthorised licensable activities. The legislation states that:-

- (1) A Person commits an offence if –
 - (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or
 - (b) he knowingly allows a licensable activity to be carried on.
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to an unlimited fine, or to both.

Irrespective of the permission's and restrictions attached to any premises licence, all licensed premises are required to operate with regard to the 4 licensing objectives, which are;

- o The Prevention of Crime and Disorder
- o Public Safety
- o Prevention of Public Nuisance
- o Protection of Children from Harm

Please be aware that any enforcement action is taken in line with our Licensing Enforcement Policy. You are also reminded that at any stage, following the grant of a premises licence, a responsible authority, such as the Police, Environmental Health, or an interested party such as a resident living in the vicinity of the premises, may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

In light of the above information, I am issuing you with a **Warning** in accordance with our Licensing Enforcement Policy.

A copy of this email has also been sent to Police Licensing.

If you have any questions regarding the above, please do not hesitate to contact me.

Regards

Donna Lynsdale | Fair Trading Officer & Licensing Officer (Trading Standards & Licensing), Safer Communities
Brighton & Hove City Council, 2nd Floor, Bartholomew House, Bartholomew Square,
Brighton BN1 1JP
T 01273 292494 | donna.lynsdale@brighton-hove.gov.uk

Appendix B - Copy of email sent to premises dated 18 October 2022

From: Donna Lynsdale

Sent: 18 October 2022 17:24

To: REDACTED

Cc: Brighton.Licensing@sussex.police.uk

Subject: Yelken, 109 St James's Street, Brighton BN2 1TH - 2022/02298/LICPRM/EH

Dear Ali Algun

Licensing Act 2003

Yelken, 109 St James's Street, Brighton BN2 1TH

Premises Licence Number: 1445/3/2021/01152/LAPREN

I am writing you as the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) for the above premises.

I write following a visit carried out by Police Licensing on 9 September 2022.

Below are their findings and details of breaches of your premises licence conditions:

Annex 2 – Conditions consistent with the Operating Schedule

For the Prevention of Crime and Disorder:

3. (a) Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System

(PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover the entrances/exits to the premises and the fridges/shelves where alcohol is stored. The system shall be on and recording at all times the premises licence is in operation.

- (b) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
- (c) CCTV footage will be stored for a minimum of 31 days
- (d) 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.
- (e) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
- (f) Subject to GDPR guidance and legislation, 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 (or other electronic portable device acceptable to Sussex Police e.g. USB) for the police without difficulty or delay and without charge to Sussex Police.
- (g) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
- (h) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable. They advised that the CCTV was approximately 20 minutes slow, the CCTV didn't cover the internal seating area in its entirety, and you were unable to show 31 days' worth of CCTV or any previous days.

For the Prevention of Public Nuisance:

5. Notices will be displayed asking all to leave the premises quietly and to have respect for local residents and other premises.

The notice was in an inappropriate position. Please ensure you comply with the condition above.

For the Protection of Children from Harm:

6. (a) The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:

- * The lawful selling of age restricted products
- * Refusing the sale of alcohol to a person who is drunk

(b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 12 weeks, with the date and time of the verbal reinforcement/refresher training documented.

(c) All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.

There was no documented initial or refresher training.

7. 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 recommended forms of ID that will be accepted are passports, official

Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.

8. Signage advertising the 'Challenge 25' policy will be displayed in prominent locations in the premises.

There was only 1 CH25 poster on display which was not clearly visible. Please ensure you comply with the above condition 'will be displayed in prominent locations in the premises'.

The above breaches are very disappointing. Especially as I had previously provided you with all the documents etc. to comply with your conditions. However, you clearly had not utilised them.

I remind you that non-compliance with conditions constitutes a breach of the Premises Licence issued under the above legislation. Please ensure that all conditions on the licence are adhered to. It is an offence under the Licensing Act 2003, S136(1) and (4) to carry on unauthorised licensable activities. The legislation states that:-

(1) A Person commits an offence if –

(a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or

(b) he knowingly allows a licensable activity to be carried on.

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to an unlimited fine, or to both.

Irrespective of the permission's and restrictions attached to any premises licence, all licensed premises are required to operate with regard to the 4 licensing objectives, which are;

- o The Prevention of Crime and Disorder
- o Public Safety
- o Prevention of Public Nuisance
- o Protection of Children from Harm

Please be aware that any enforcement action is taken in line with our Licensing Enforcement Policy. You are also reminded that at any stage, following the grant of a premises licence, a responsible authority, such as the Police, Environmental Health, or an interested party such as a resident living in the vicinity of the premises, may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

In light of the above information, I am issuing you with a **Final Warning** in accordance with our Licensing Enforcement Policy.

A copy of this email has also been sent to Police Licensing.

If you have any questions regarding the above, please do not hesitate to contact me.

Regards

Donna Lynsdale | Fair Trading Officer & Licensing Officer (Trading Standards & Licensing), Safer Communities
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Appendix D



