



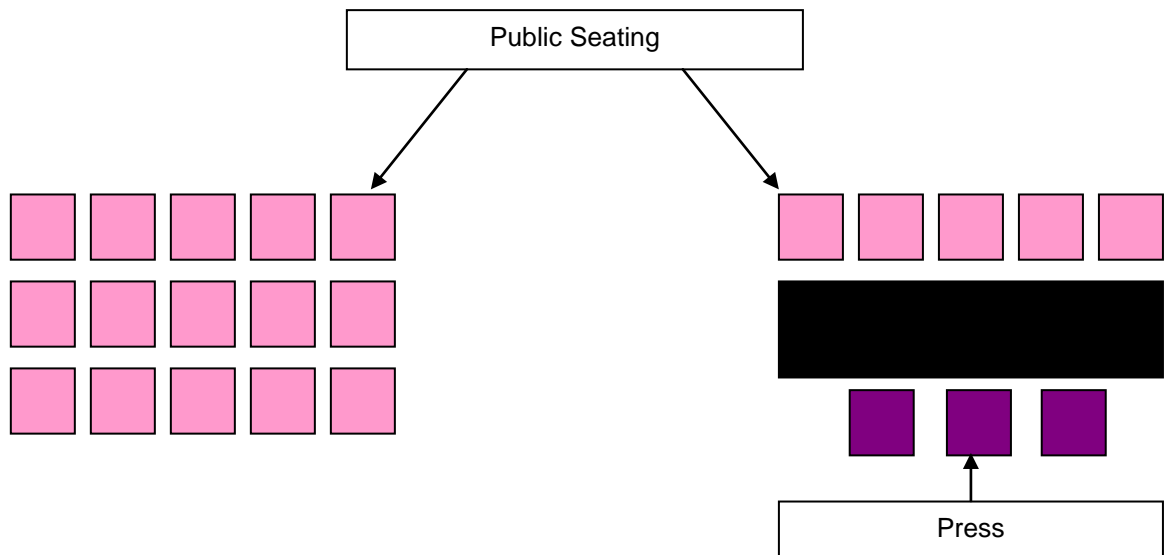
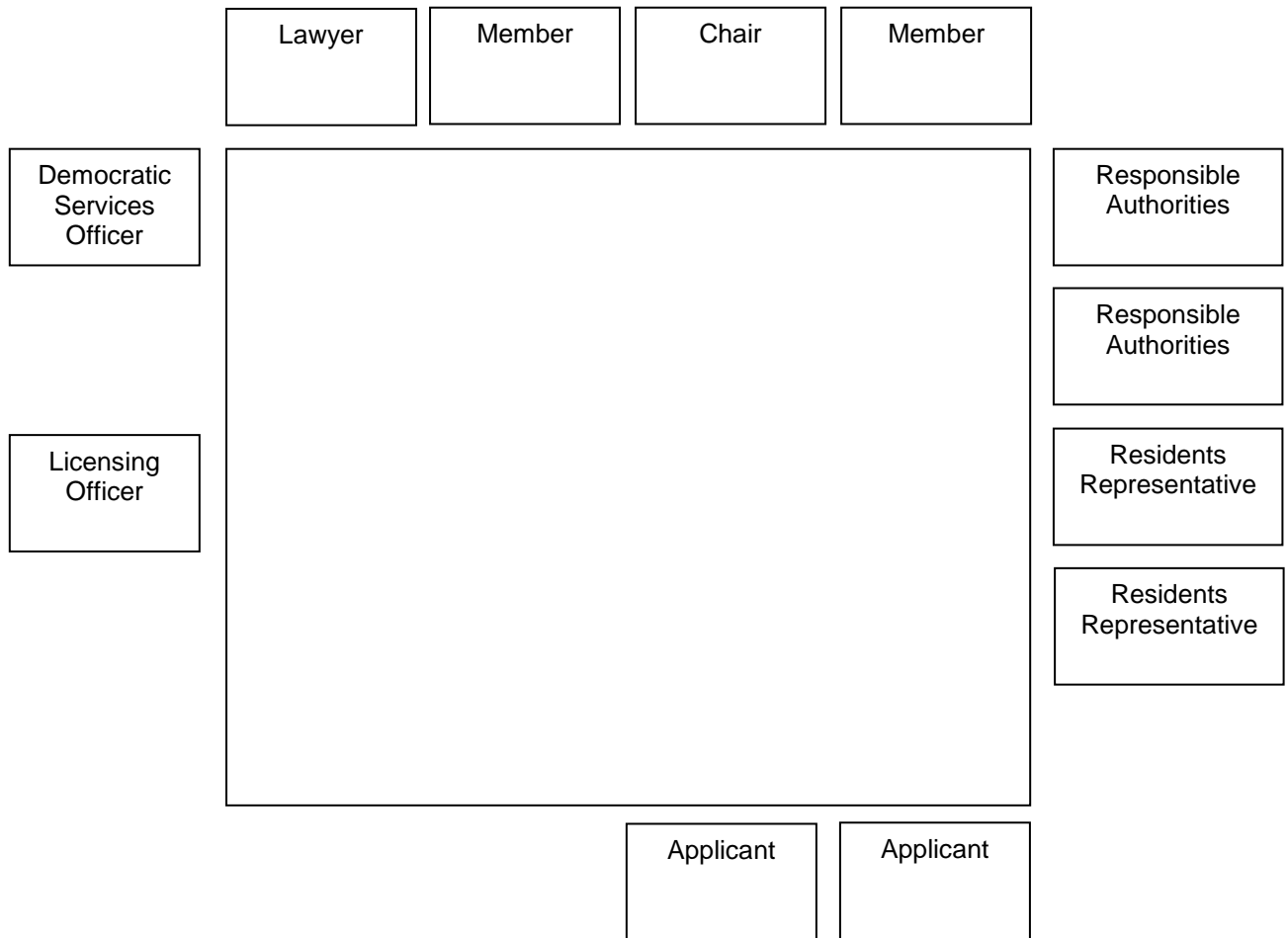
# Licensing Panel

## (Licensing Act 2003 Functions)

Title:	<b>Licensing Panel (Licensing Act 2003 Functions)</b>
Date:	<b>31 August 2016</b>
Time:	<b>10.00am</b>
Venue	<b>Committee Room 1, Brighton Town Hall</b>
Members:	<b>Councillors:</b> Deane, O'Quinn and Simson
Contact:	<b>Lisa Johnson</b> Democratic Services Officer 01273 291228 cliona.may@brighton-hove.gov.uk

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## Democratic Services: Meeting Layout



## AGENDA

### Part One

### Page

#### 30 TO APPOINT A CHAIR FOR THE MEETING

#### 31 PROCEDURAL BUSINESS

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

(b) **Declarations of Interest:**

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

In each case, you need to declare

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

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

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

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

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

#### 32 APPLICATION FOR A NEW PREMISES LICENCE, BARCODE RESTAURANT, 128 CHURCH ROAD, HOVE

1 - 28

Report of the Director of Public Health (copy attached)

Contact Officer: Sarah-Jane McNaught Tel: 01273 294431  
Ward Affected: Central Hove

**33 NOTIFICATION OF A TEMPORARY EVENT NOTICE UNDER THE  
LICENSING ACT 2003 - CHAPTER XIII, 12 POOL VALLEY,  
BRIGHTON, BN1 1NJ**

**29 - 46**

Report of Director of Public Health (copy attached)

**NOTES:** *Applicants, Agents, Representatives from Statutory Authorities and Other Interested Parties are kindly requested to wait outside before the beginning of the hearing until called in together by the clerk.*

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

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Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Cliona May, (01273 29-1354, email [cliona.may@brighton-hove.gov.uk](mailto:cliona.may@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

Date of Publication - Monday, 22 August 2016

## LICENSING PANEL

(Licensing Act 2003 Functions)

## Agenda Item 32

Brighton & Hove City Council

<b>Subject:</b>	<b>Application for a New Premises Licence under the Licensing Act 2003</b>		
<b>Premises:</b>	<b>Barcode Restaurante, 128 Church Road, Hove, BN3 2EA</b>		
<b>Applicant:</b>	<b>Mohammad Abdolkhani</b>		
<b>Date of Meeting:</b>	<b>31 August 2016</b>		
<b>Report of:</b>	<b>Director of Public Health</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Sarah-Jane McNaught</b>	<b>Tel: (01273) 294431</b>
	<b>Email:</b>	<b>sarah.mcnaught@brighton-hove.gcsx.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>Central Hove</b>		

### FOR GENERAL RELEASE

#### 1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for Barcode Restaurant

#### 2. RECOMMENDATIONS:

- 2.1 That the Panel determine an application for a New Premises Licence under the Licensing Act 2003 for Barcode Restaurant

#### 3. CONTEXT/BACKGROUND INFORMATION & CONSULTATION

- 3.1 The application is for a New Premises Licence under the Licensing Act 2003. The application proposes a Cafe Bar on the south side of the busy Church Road mixed use area of Hove and opposite to George Street the premises will operate as a Cafe Bar under current Licensing Policy.
- 3.2 Part M of the application is detailed at Appendix A and the proposed plan of the premises is attached at Appendix B.

### 3.3 Summary table of proposed activities

	<b>Proposed</b>
<b>M) Supply of Alcohol</b>	Monday – Saturday 08:00 to 22:30 Sunday 08:00 to 22:00 On the premises
<b>O) Hours premises are open to public</b>	Monday – Saturday 08:00 to 23:00 Sunday 08:00 to 22:30

- 3.4 The premises does not fall in the Cumulative Impact Area or the Special Stress Area.

#### **Representations received**

- 3.5 Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. A summary appears below:
- 3.6 Six representations were received. They were received from the Environmental Protection team, local residents and two Councillors.
- 3.7 Representations received had concerns relating to Prevention of Crime and Disorder and Prevention of Public Nuisance.
- 3.8 The representation received from the Environmental Protection team was subsequently withdrawn after an agreement of conditions..
- 3.9 Full details of the representations are attached at Appendix C. A map of the location of the premises and showing those representations within the locality is at Appendix D. Please note that Councillor reps are not shown on the map but can be found at Appendix C.

## **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. 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.

## **1.2 The licensing objectives are:-**

- (a) Prevention of crime and disorder;
- (b) Public safety;
- (c) Prevention of public nuisance;
- (d) Protection of children from harm.

## **1.3 Scope**

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)

	<b>Cumulative Impact Area</b>	<b>Special Stress Area</b>	<b>Marina</b>	<b>Other Areas</b>
<b>Restaurant</b>	Yes (midnight)	Yes (midnight)	Yes	Yes (midnight)
<b>Café bar</b>	Yes (11.30)	Yes (midnight)	Yes	Yes (midnight)
<b>Late Night Takeaways</b>	No	Yes (midnight)	Yes	Yes (midnight)
<b>Night Club</b>	No	No	Yes	No
<b>Pub</b>	No	Yes (11pm)	Yes	Yes (midnight)
<b>Non-alcohol lead (e.g. Theatre)</b>	Yes (favourable)	Yes (favourable)	Yes	Yes (favourable)
<b>Off-licence</b>	No	No	Yes	Yes ( Up to 11pm but if in densely residential area may be earlier – see note 7 below)
<b>Members Club (club premises certificate)</b>	Yes (<100 capacity) (11pm)	Yes (<100 capacity) (11pm)	Yes	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 off set 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 café bars, 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 and the Street Community and Drug Activity Profile. These documents are available on the following page of our website [www.brighton-hove.gov.uk/licensingact](http://www.brighton-hove.gov.uk/licensingact).
- 8) In an area where there are already several existing off-licences 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.
- 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.

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

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

## **4 Prevention of Crime and Disorder**

4.1.1 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.

4.1.2 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.

- 4.1.3 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.

### **4.3 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, eg 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 Industries 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. The Licensing Strategy Group has sought to define the standards and operating guidance for such mobile units, which will be in need of regular review. This policy endorses the use of units following such guidance and standards in appropriate circumstances. A copy can be found on the licensing pages of the council's website.

- 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 (Appendix B in the Statement of Licensing Policy).

## **6 Prevention of Public Nuisance**

- 6.1 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).
  - 6.1.5 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 your 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 you may find it 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.

## **8 Integration of Strategies**

8.1 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

8.2 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.

8.3 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.

8.4 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.

- 8.5 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.
- 8.6 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.

## **APPENDIX A – Licensing Best Practice Measures**

Best Practice Measures to be included for consideration, in particular in SSA:

Matters that would normally be expected in operating schedules:

- the adoption of a policy (e.g. Challenge 25) with acceptable proof of id as per existing Statement of Licensing Policy
- all off sales to be made in sealed containers for consumption away from the premises
- a smoking policy which includes an assessment of noise and litter created by premises users
- the use of plastic or polycarbonate drinking vessels and containers, especially in outside areas or after specified hours
- a policy in relation to searching customers and for drugs, weapons, seized or lost and found property
- use of a refusals book for registering attempts to buy alcohol by under-age persons or refusals to those intoxicated
- the installation of a digital CCTV system by liaison with, and to a standard approved by, Sussex Police
- policies for dispersal of customers which may include signage regarding taxi services' telephone numbers and advice to respect neighbours and minimize noise

Items to which positive consideration would be given:

- membership of Business Crime Reduction Partnership, Pubwatch, Neighbourhood Watch or similar schemes
- use of 'NightSafe' radio system or similar accredited scheme
- regular training and reminders for staff in respect of licensing legislation, policies and procedures; records of which should be properly recorded and available for inspection
- records of regular checks of all parts of the premises in relation to drug use
- systems in place to ensure details of barred clients are exchanged with other operators
- giving an agreed minimum notice of special events (screening of major sports events, birthday parties, adult entertainment, etc.) to relevant authorities and use of appropriate additional measures at such events

Recommend best practice for both on and off premises

- Staff must be aware of the risk of the problem of proxy sales and offer assistance to responsible authorities to deter offences
- Signage on premises should set out legal duties
- Voluntary restriction of high strength alcohol – operating schedules may be used to limit high ABV beers and ciders
- Staff training – in addition to personal licence holders training, staff must be adequately trained for duties
- Challenge 25 would be the norm, particularly in the off licence trade
- Signage – proxy sale – deterrence

## **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: 09/08/16*

### 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: 08/08/16*

### 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 M of the Application
2. Appendix B – Proposed Plan of Premises
3. Appendix C – Representations
4. Appendix D – Map of area

**Documents in Members' Rooms**

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2011, as amended 20 December 2011.

**Background Documents**

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2011, as amended 20 December 2011.



## **APPENDIX A**

**M** Describe the steps you intend to take to promote the four licensing objectives:

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

The premise will operate as laid out in policy by the Licensing Authority as a Cafe Bar with customers seated at tables and chairs and served both drinks and food by waiter waitress to those seated customers and there will be no vertical drinking. Substantial food including table meals will be available at all times the premise is open.

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

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 all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

- The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
- CCTV footage will be stored for a minimum of 31 days
- The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
- The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
- Subject to Data Protection 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 for the police without difficulty or delay and without charge to Sussex Police.
- Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.

### **c) Public safety**

The Fire risk Assessment will be updated to reflect the minor changes in the layout

d) The prevention of public nuisance

There will be no regulated entertainment and the side doors and windows abutting Osborne Villas will be kept closed after 20.00 hours, other than for entry and egress. Customers wishing to go outside to smoke will not be allowed to take any drinks outside and will be encouraged as far as practical to use the street entrance fronting onto Church Road.

Notices will be displayed to that effect and asking all customers to respect the neighbours and leave the area quietly.

e) The protection of children from harm

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

The Premises Licence Holder 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

Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 8 weeks, with the date and time of the verbal reinforcement/refresher training documented.

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.

The premises shall at all times maintain and operate an age-restricted sales refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor at intervals not to exceed 4 weeks and feedback given to staff as relevant. This refusals recording system shall be available upon request to police staff, Licensing Authority staff and Trading Standards.



0 1 2 3 4 5 6 7 8 9

SCALE BAR  
AT DRAWING SIZE



## **APPENDIX C**

From: Tom Montague

Sent: 01 August 2016 11:12

To: EHL Safety

Subject: Barcode Restaurant, Application licence number: 1445/3/2016/03819/LAPREN

### **SJM CON ENDS 03.08.16 VALID PPN (B)**

Dear Sir or Madam,

I write to object to the granting of a license to serve alcohol at Barcode, 128 Church Road, Hove BN3 2EA.

Between July 2015 and May 2016, these premises caused an ongoing statutory noise nuisance in the form of a noisy extractor flue which caused a loud, industrial-sounding, buzzing noise for 15 hours a day, 7 days a week. This caused distress to neighbours and Environmental Health were involved (case officer: Emma Bullen), serving a noise abatement order in September 2015. After months of prevaricating, Barcode eventually agreed to run the flue at 40% operating capacity in order to mitigate the noise.

This respite lasted about 6 weeks. Since mid June, the flue has again been intermittently operating at full capacity, causing noise which is in breach of the original noise abatement order and which causes a disturbance to immediate neighbours. The industrial noise it emits has changed the character of Osborne Villas from a residential street to a commercial area. This last weekend (30th and 31st July) the flue has been particularly intrusive.

This noise represents a public nuisance and on this basis, I don't believe these premises should be granted a license to serve alcohol. I also think it's concerning that there is a lengthy history of non-compliance from these premises with various council departments who have attempted to work constructively with them, including Environmental Health, Planning & Regulatory Services. Whilst the named point of contact for this particular license application may have changed from the previous rejected one, the day-to-day management of these premises - and therefore the underlying issues - remains the same.

Please can you take residents' concerns seriously, as we are the ones who have to live with the consequences of your decision.

Yours faithfully

Thomas Montague

7 Grosvenor Mansions, Osborne Villas, Hove BN3 2RX

From: Andrew Wealls

Sent: 03 August 2016 11:11

To: Sarah-Jane McNaught; EHL Safety

Subject: Barcode Application 1445/3/2016/03819/LAPREN Councillor Representation

**SJM CON ENDS 03.08.16 VALID PPN (C)**

Dear Sarah Jane,

Please ensure that my comment regarding this application is passed on to the Licensing Committee which will consider this application.

There is a long history of disturbance from a flue to the rear of the premises, which is designated a statutory noise nuisance when the power is turned up beyond 40. The unit has again been designated a statutory noise nuisance, in spite of the current management's insistence that the power has not been turned up beyond 40. An inspection by Environmental Health officers on 24th July noted that the power was at 46 and the flue was again a statutory noise nuisance. The mechanism by which the power may be varied is currently accessible by all staff, and clearly has been altered in spite of notices requiring that it is not set beyond 40.

I request that a licence is WITHHELD until the new business owner, Mr Mohammad Abdolkhani, can demonstrate to the absolute satisfaction of an Environmental Health officer, that it is impossible for anyone, other than the DPS to alter the power of the extractor. Given the history of these premises and the understandable suspicion of those living nearby, it would be sensible to ensure this condition is IN PLACE BEFORE a licence is granted. I do not consider it to be a sufficient condition that this is the case, as I am concerned a great deal of resource will be expended enforcing the condition should a licence be granted before the provision is implemented.

I also request that, should a licence be granted it is for an initial period of one year only. That will ensure that all additional conditions, whether suggested by Environmental Health and Licensing or the Committee have been fully respected, and that a new application is required in a year's time once compliance has been clearly demonstrated.

Thank you for your support.

Yours sincerely

Councillor Andrew Wealls

Conservative Member for Central Hove

**From: Ben Holst**

Sent: Tuesday, August 02, 2016 05:42 PM GMT Standard Time

To: Sarah-Jane McNaught

Subject: Re: Barcode Restaurant - protect

**SJM CON ENDS 03.08.16 VALID PPN & PCD (D)**

Hi Sarah-Jane

My main license objection is in terms of public nuisance. They are consistently in breach of noise regulations and despite noise abatement orders they continue to run their very loud extractor making their neighbours lives a misery.

In terms of selling alcohol without a license I would expect this to be relevant in terms of Crime and Disorder.

Clare Moonan (Labour Councillor for our ward) went in to Barcode a couple of days before the previous licence hearing and was sold a beer at a point that Barcode did not have a licence. She took a photo of the receipt and the beer. Perhaps you can pick up directly with her. I believe she is objecting as well, but not sure if she will be including the above in her objection.

Would it count as crime and disorder if they deliberately ran up a huge debt tax liability to HMRC and the local council, approx £180k, and then just liquidated the company, wrote off the debt, and continued in business as though nothing had happened? It certainly feels wrong to me, but perhaps not illegal.

I am most concerned that if Barcode are granted a license, they will never have any incentive to ever cooperate with the council again. They still have not fixed their excessive noise problem, and actually seem determined to not do so. This is literally driving people from their homes.

Regards, Ben Holst Flat 8 Grosvenor Mansions Hove BN3 2RX

Environmental Health and Licensing  
Brighton & Hove City Council  
Bartholomew Square  
Brighton  
BN1 1PF

Tanya Petherick  
Flat 1, 22 Medina Villas  
Hove,  
BN3 2RL

1<sup>st</sup> August 2016

●**License number: 1445/3/2016/03819/LAPREN Barcode Restuarante**

**SJM CON ENDS 03.08.16 VALID PPN (E)**

Dear Sirs,

We are writing to object to the above application to serve alcohol, for the following reasons.

1.The previous licence application for this premises was rejected by the Licensing Panel on June 13<sup>th</sup> 2016, on the grounds of the problems local residents, including ourselves, had encountered with the managers of Barcode (Emad & Foad Abdulkhani), relating to public nuisance and breaches of conditions.

2.Evidence of the sale of alcohol without a licence was not submitted in time to affect the licensing committee's decision; however, indications were that alcohol had been sold to Councillor Moonan on the premises without a licence.

3.In addition to the breach of licensing conditions, Environmental Health have issued a noise abatement order to the Abdulkhani's in relation to a large, noisy flue which in addition to being a noise nuisance does not have planning permission. Whilst we understand that this is not a direct licensing issue, the noise from the flue is an ongoing problem, a noise abatement order has been broken, and we believe it adds context to the fact that the owners of Barcode are not following Council orders. This extractor fan was installed one year ago on 29<sup>th</sup> July 2015. It has caused us, and other local residents, extreme distress since it was installed. Since the fan was installed we have been unable to use our garden, and sit with the windows closed on warm days to try and reduce the noise nuisance. This situation has caused us considerable upset. We are particularly frustrated as we thought this issue had been resolved and for a period of about 2 months, the noise had been within a tolerable level, however, in the last 2 weeks the noise has reached its former level. We are at a loss as to why a fan which was being kept within an acceptable tolerance and has recently been turned up again.

4.Barcode has been run by Emad and Foad Abdulkhani since it opened in 2013, however, ownership of the restaurant appears to be changing through the guise of different limited companies on a regular basis. The former licensing application was made by Code Hove Ltd, who listed Sara Hohendahl as the sole director. Since the rejection of the licensing application, Sara Hohendahl has resigned as director and was replaced by Emad Abdulkhani on 31<sup>st</sup> July 2016. A new company, Taji Ltd, owned by Mohammad Abdolkhani was registered at the same address on 20<sup>th</sup> June 2016. Our fear is that, as Mohammad Abdolkhani shares the



same surname as the current occupants, he is a member of the same family and will not respect licencing conditions or environmental health orders. We would like to request that in the course of their decision making, the licensing panel makes certain beyond doubt that they are satisfied that Barcode Restaurante is willing and capable of upholding all and any conditions placed on them by the council. Further we would like them to clarify why the ownership of Code Hove changed after the creation of Taji limited, and what impact this has on the day to day operations and future of Code Hove. Further, we would like the licencing committee to clarify when Mohammad Abolkhani's tenure at Barcode Restaurante started. If it is prior to 3<sup>rd</sup> August, we would like to understand the involvement of Foad and Emad Adulkhani who are both still present in the restaurant and to confirm that the noise abatement order has been recorded as broken as twice in that period.

Given the history and the upset and distress we have experienced, we would like to propose:

- Mohammed Abdolkhani runs Barcode Restaurante for 6 months to prove that he is a suitable person
- Mohammed Abdolkhani agrees to attend a meeting arranged by Cllr Wealls to understand the concerns of local residents and puts measure into effect to ensure there are no further issues
- Reducing noise from the fan is a condition of the license and it is clear that a single breach is a breach too many
- If a license is granted, that it is granted for a maximum of 12 months

Yours sincerely,

Tanya Petherick

**From: patricia robinson**

Sent: 03 August 2016 16:18

To: EHL Safety

Subject: License Number 1445/3/2016/03819/LAPREMr

**SJM CON ENDS 03.08.16 VALID PPN (F)**

To Brighton & Hove Licensing Departing

I should like to object to this application for a new alcohol premises license for Barcode Restaurante at 128 Church Road Hove made by Mr Mohammad Abdolkhani. I live directly opposite these premises in Grosvenor Mansions, Osborne Villas, Hove.

I am very concerned that the council may grant a license to someone who may not be actually running this business and may be only a named "front" person for the purposes of getting an alcohol license. It is important to look at the actual ownership of the premises and to look at who has been running this business since 2013. The Land Registry Title Deeds No ESX241531 for 128 Church Road Hove show the freehold title of 128 Church Road belongs to Mr Ali Abdolkhani care of Avallon 55 Tongdean Avenue, Hove, BN3 6TN. The ground floor with basement of 128 Church Road Hove has operated as a restaurant since November 2013 and has been run continuously since that date to the present day by Mr Foad Abdolkhani and his brother Mr Emad Abdolkhani. The original license for these premises was issued to Barcode Hove Limited in November 2013 and the DPS was Mr Foad Abdolkhani. Barcode Hove Ltd went into liquidation in December 2015 with debts of £172,141.11. A new application under a new company name of Code Hove Limited with Mr Foad Abdolkhani as the DPS was made in May 2016 and at a hearing of the Licensing Panel on 13th June 2016 this application was refused. The sole director of Code Hove Ltd, Ms Sara Hohendahl, attended the Licensing Panel hearing but she has since resigned as a director on 31 July 2016 and Mr Emad Abdolkhani was appointed the new sole director of Code Hove Limited also on 31st July 2016. The Licensing Panel made it clear that the reasons they refused the licence were because of the ineffective management of this business and the frequent non-adherence to the conditions of the license.

We are now presented with a new application by a Mr Mohammad Abdolkhani and it is stated on the application that he is trading as Barcode Restaurante at these same premises, 128 Church Road Hove. Mr Mohammad has told one of our Councillors that he is not related to Mr Foad and Mr Emad Abdolkhani. Is this new applicant a sole trader who is the new exclusive owner of this business? Or will this business now operate under the auspices of a new company called Taji Limited whose sole director is a Mr Mohammad Abdolkhani and who was appointed on 20th June 2016 and gives his address for correspondence as 128A Church Road Hove, the first floor of these premises which Mr Foad Abdolkhani had listed as his residential home on previous licence applications? Has the new owner purchased the freehold of the building or just the restaurant business? As a local resident I

am very suspicious of this transfer of ownership because of the way this business had been run these last three years, in particular its non-adherence to the licensing conditions. The Council need to be properly satisfied before granting any licence that the applicant Mr Mohammad Abdolkhani is properly running the business and is qualified to do so and is not a "front" for the prior management and that the business will not be effectively run by the prior management whose previous application was refused on the grounds of ineffective management and non-adherence to the conditions of the licence. In this instance and order to be absolutely certain the Council should ask to see the legal documentation transferring the business/property from the current owner to the new owner and Mr Mohammad Abdolkhani should be happy to comply with this.

In July 2015 Barcode installed an industrial sized flue to ventilate their basement kitchen which has proven to be a considerable public nuisance. This flue is extremely large and noisy and very visible from the road. It was installed without planning permission and without any consultation with the environmental health dept to ensure the correct equipment was installed. It runs for seven days a week from around 8.00am until well past 11.00pm and has caused a serious noise problem for the local residential neighbours. If it runs above 40 per cent of its capacity it breaks the noise abatement notice that the environmental health department served on Barcode. It has consistently run above the 40 percent level since it was installed with the exception of a six week period just before and after the last licence hearing on 13 June 2016. This may give the cynical impression that Barcode's owners only complied with the noise abatement order that was served on them when it suited their purposes, in this case when they needed the council to grant a new premises licence in order to serve alcohol. It should be a condition of any licence that this flue can only be operated up to the limit of 40 per cent capacity and it should be engineered so that it is not possible to operate at a higher level.

Finally I would ask that any new licence retains the extra condition regarding the closure of all the side windows on Osborne Villas from 8.00pm each evening and that the licence should only run for no more twelve months to ensure there are no ongoing issues regarding ownership and the operation of the flue.

Mrs Patricia Robinson

Flat 4 Grosvenor Mansions Osborne Villas Hove BN3 2RX

**From:** Clare Moonan  
**Sent:** 03 August 2016 23:06  
**To:** Sarah-Jane McNaught  
**Subject:** Barcode Application 1445/3/2016/03819/LAPREN Councillor Representation

Dear Sarah

**SJM CON ENDS 03.08.16 VALID PPN (G)**

I am writing to object to the above license on the basis that I believe the applicant will not meet the Council's licensing objective to prevent public nuisance.

There is a long history of problems with this premises. Although the current application is under a new company name, I feel that the licensing committee needs to clearly establish the exact relationship between the new applicants and the previous management. Also that the previous applicant or license holders will not be involved in implementation of any new alcohol license. Under the previous management I was sold alcohol at the restaurant when they had no license. They have been breaches of condition, such as closing windows in the evenings. Most significantly, after many months of working to address the noise issues created by the extractor fan, there has been a recent breach of the noise abatement order imposed by the council.

If a license is granted I request that all the previous conditions are retained. In addition I would like a condition that the extractor fan is controlled so that it cannot be raised above 40.

I would like to attend the panel hearing to discuss these concerns in more detail.

Best wishes

**Cllr Clare Moonan**  
Labour Councillor for Central Hove Ward  
Deputy Chair Neighbourhoods, Communities and Equalities  
Lead member for rough sleeping  
Chair West Area Housing Panel

## **WITHDRAWN REPRESENTATION**

Health & Safety and Licensing  
Bartholomew House  
Bartholomew Square  
Brighton.  
BN1 1JP

Date: 7 July 2016  
Our Ref: ELB/2016/05323/EPLIC/EH  
Contact: Emma Bullen  
Phone:  
Fax:  
e-mail:

Dear Sarah-Jane

### **SJM CON ENDS 03.08.16 VALID PPN (A)**

Licensing Act 2003

I refer to the application for a variation to the premises licence for  
Barcode, 128 Church Road, Hove

I wish to make a representation on the grounds of public nuisance under the provisions of the Licensing Act 2003. An investigation has recently been carried out following complaints from local residents about noise from a fan unit that had been installed at 128 Church Road, Hove. As a result a noise abatement notice was served and eventually complied with provided the fan only operates at 40.0.

The conditions suggested in the application should be included on the licence.

There will be no regulated entertainment and the side doors and windows abutting Osborne Villas will be kept closed after 20.00 hours, other than for entry and egress

Customers wishing to go outside to smoke will not be allowed to take any drinks outside and will be encouraged as far as practical to use the street entrance fronting onto Church Road.

Notices will be displayed to that effect asking all customers to respect the neighbours and leave the area quietly.

I would also suggest the following conditions

1. The fan which is controlled by the Invertek IP66 speed controller must only operate at 40.0 in order to prevent the likelihood of complaints being received.

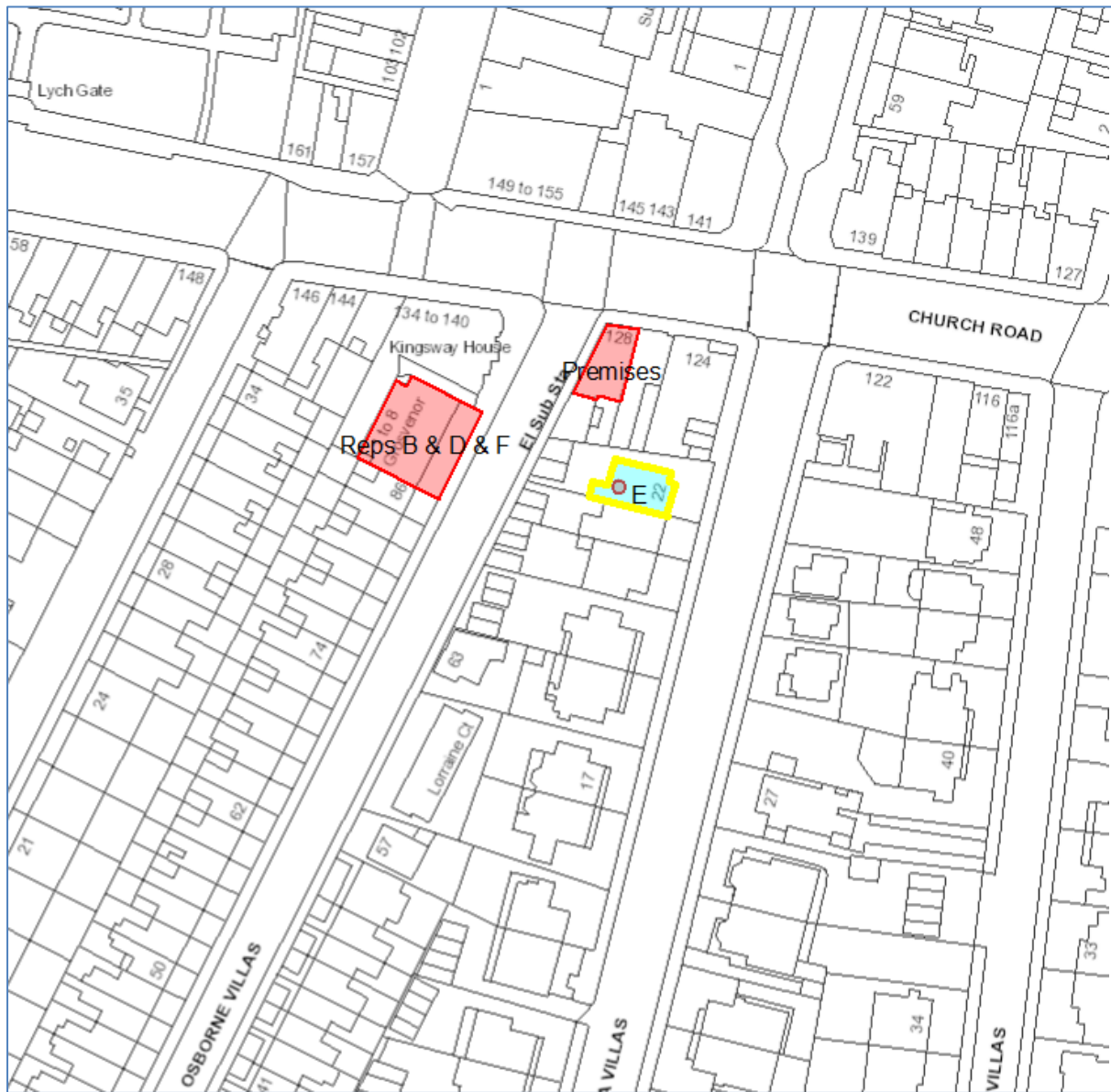
2. The fan must be turned off while the restaurant is closed from 11.00pm until 8:00am Mondays to Saturdays and 09:00 and 22:30 on Sundays and Bank or Public Holidays.
3. The speed controller should remain locked at 40.0 and only the restaurant manager has access to change the speed

Should the above conditions be agreed by the applicant I would be happy to withdraw my representation

Yours sincerely,

Emma Bullen  
Environmental Protection Officer

## **APPENDIX D**







**LICENSING PANEL**

(Licensing Act 2003 Functions)

**Agenda Item 33**

Brighton &amp; Hove City Council

<b>Subject:</b>	<b>Notification of a Temporary Event Notice under the Licensing Act 2003</b>		
<b>Premises:</b>	<b>Chapter XIII, 11 – 12 Pool Valley, Brighton, BN1 1NJ</b>		
<b>Applicant:</b>	<b>Jessica Stocker</b>		
<b>Date of Meeting:</b>	<b>31 August 2016</b>		
<b>Report of:</b>	<b>Director of Public Health</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Sarah-Jane McNaught</b>	<b>Tel: (01273) 294431</b>
	<b>Email:</b>	<b>sarah.mcnaught@brighton-hove.gcsx.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>Regency</b>		

**FOR GENERAL RELEASE****1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 To consider a notification of a Temporary Event Notice in view of a formal objection to it by a relevant person under section 104(2) of the Licensing Act 2003.

**2. RECOMMENDATIONS:**

- 2.1 That the Panel consider whether it is necessary for the promotion of the licensing objectives of the **Prevention of Crime and Disorder, the Prevention of Public Nuisance and Public Safety** to issue a counter notice to prevent the event from taking place.

**3. CONTEXT/ BACKGROUND INFORMATION & CONSULTATION**

- 3.1 This Temporary Event Notice relates to the time period: **29<sup>th</sup> – 30<sup>th</sup> October 2016**
- 3.2 The proposed activities are:

	<b>Proposed Activities</b>
<b>Sale by Retail of Alcohol</b>	15:00 – 01:00 both on and off the premises
<b>Regulated entertainment</b>	15:00 – 01:00
<b>Late Night Refreshment</b>	15:00 – 01:00

- 3.3 The area to be covered by the temporary event notice: **gallery only**
- 3.4 Please see a copy of the Temporary Event Notice attached at Appendix A.

## **Representations received**

- 3.5 The **Sussex Police** representation on the Temporary Event Notice was made no later than 72 hours following receipt of the Temporary Event Notice. Their objection was made on the grounds of the **Prevention of Crime and Disorder, the Prevention of Public Nuisance and Public Safety**.
- 3.6 Please see representation letter from Sussex Police attached in **Appendix B**.
- 3.7 A map detailing the location of the premises is attached at **Appendix C**.

## **4. COMMENTARY ON THE LICENSING POLICY**

- 4.1 The following extracts from Guidance issued under section 182 of the Licensing Act 2003 are considered relevant to this application and **numbered as they appear in the Guidance**:

### **General**

- 7.28 If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”), and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

### **Police and Environmental Health Intervention**

- 7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of the licensing objectives.
- 7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.
- 7.36 The police or EHA (as “relevant persons”) may contact the premises user to discuss their objections and try to come to an agreement which will

allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.

## Applying conditions to a TEN

7.37 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:

if the police or the EHA have objected to the TEN;

if that objection has not been withdrawn;

if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;

and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.

## 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: 24/08/2016*

### 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: 24/08/2016*

### 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 – Temporary Event Notice
2. Appendix B – Representation made by Sussex Police
3. Appendix C – Map of the area

**Documents in Members' Rooms**

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2011, as amended 20 December 2011.

**Background Documents**

# **APPENDIX A**

## Temporary Event Notice

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

You should keep a copy of the completed notice for your records. You must send at least one copy of this notice to the licensing authority and additional copies must be sent to the chief officer of police and the local authority exercising environmental health functions for the area in which the premises are situated. The licensing authority will give to you written acknowledgement of the receipt of the notice.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)			
1. Your name			
Title	Miss		
Surname	Stocker		
Forenames	Jessica		
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)			
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname			
Forenames			
3. Your date of birth		Day	Month Year
4. Your place of birth			
5. National Insurance Number			
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)			
5 Kew Cottage High St Steyning			
Post town		Post code BN44 3UD	
7. Other contact details			
Telephone numbers Daytime			
Evening (optional)			
Mobile (optional)			
Fax number (optional)			
E-Mail Address (if available)			
8. Alternative address for correspondence (If you complete the details below, we will use this address to correspond with you)			

Post town	Post code
9. Alternative contact details (if applicable)	
Telephone numbers: Daytime	
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail Address (if available)	

<b>2. The premises</b>	
Please give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references) (Please read note 2)	
CHAPTER XIII 11-12 Pool Valley Brighton BN1 1NJ	
Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.	
Premises licence number	
Club premises certificate number	
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)	
GALLERY ONLY	
Please describe the nature of the premises below. (Please read note 4)	
ART GALLERY	
Please describe the nature of the event below. (Please read note 5)	
HALLOWEEN PARTY	

3. The licensable activities		
Please state the licensable activities that you intend to carry on at the premises (please mark an "X" next to the licensable activities you intend to carry on). (Please read note 6)		
The sale by retail of alcohol	Y	
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	Y	
The provision of regulated entertainment	Y	
The provision of late night refreshment	Y	
Are you giving a late temporary event notice? (Please read note 7)	N	
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 8)		
29th OCTOBER 2016		
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 9)		
1500 – 0100		
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 10)		100
If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please mark an "X" next to the appropriate box). (Please read note 11)	On the premises only	Y
	Off the premises only	Y
	Both	Y

4. Personal licence holders (Please read note 12)		
Do you currently hold a valid personal licence? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No N
If "Yes" please provide the details of your personal licence below.		
Issuing licensing authority		
Licence number		
Date of issue		
Date of expiry		
Any further relevant details		



5. Previous temporary event notices you have given (Please read note 13)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice? (Please mark an "X" in the box that applies to you)	Yes X	No
If answering yes, please state the number of temporary event notices you have given for events in that same calendar year		
Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No X

6. Associates and business colleagues (Please read note 14)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No N
If answering yes, please state the total number of temporary event notices your associate(s) have given for events in the same calendar year	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No N
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No N
If answering yes, please state the total number of temporary event notices your business colleague(s) have given for events in the same calendar year.		
Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No N

7. Checklist (Please read note 15)	
I shall (Please mark the appropriate boxes with an "X")	
Send at least one copy of this notice to the licensing authority for the area in which the premises are situated	Y
Send a copy of this notice to the chief officer of police for the area in which the premises are situated	Y
Send a copy of this notice to the local authority exercising environmental health functions for the area in which the premises are situated	Y

If the premises are situated in one or more licensing authority areas, send at least one copy of this notice to each additional licensing authority	Y
If the premises are situated in one or more police areas, send a copy of this notice to each additional chief officer of police	Y
If the premises are situated in one or more local authority areas, send a copy of this notice to each additional local authority exercising environmental health functions	Y
Make or enclose payment of the fee for the application	Y
Sign the declaration in Section 9 below	Y

<b>8. Condition (Please read note 16)</b>
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

<b>9. Declarations (Please read note 17)</b>	
The information contained in this form is correct to the best of my knowledge and belief.	
I understand that it is an offence:	
(i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on conviction for such an offence to a fine up to level 5 on the standard scale; and	
(ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on conviction for any such offence to a fine not exceeding £20,000, or to imprisonment for a term not exceeding six months, or to both.	
Signature	Jessica Stocker
Date	19 <sup>th</sup> August 2016
Name of Person signing	Jessica Stocker

For completion by the licensing authority

<b>10. Acknowledgement (Please read note 18)</b>	
I acknowledge receipt of this temporary event notice.	
Signature	On behalf of the licensing authority
Date	
Name of Officer signing	

## NOTES

### General

The police and local authority exercising environmental health functions may intervene on the grounds of any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) to prevent the occurrence of an event at which permitted temporary activities are to take place or to agree a modification of the arrangements for such an event. However, the licensing authority will intervene of its own volition in the cases described below.

First, it will issue a counter notice if there is an objection to a late temporary event notice (see note 7 below).

Secondly, it may issue a notice in relation to its decision to impose conditions on a temporary event notice (see note 2 below).

Thirdly, it will issue a counter notice if the first, second and fourth of the limits set out below would be exceeded. If any of the limits below are breached or if a counter notice has been issued, any licensable activities taking place would be unauthorised and the premises user would be liable to prosecution. The limitations apply to:

- the number of times a person (the “premises user”) may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
- the number of times a person (the “premises user”) may give a late temporary event notice (10 times per year for a personal licence holder and 2 times per year for other people);
- the number of times a temporary event notice may be given in respect of any particular premises (12 times in a calendar year);
- the length of time a temporary event may last for these purposes (168 hours);
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (21 days per calendar year); and
- the scale of the event in terms of the maximum number of people attending at any one time (a maximum of 499).

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. The limits applying to late temporary event notices are included within the overall limits applying to the total number of temporary event notices. Note 14 below explains the definition of an “associate”.

When permitted temporary activities take place, a premises user must ensure that either:

a copy of the temporary event notice endorsed as acknowledged by the licensing authority is prominently displayed at the premises; or that

the temporary event notice is kept at the premises either in his own custody or in the custody of a person present and working at the premises and whom he has nominated for that purpose.

Where the temporary event notice is in the custody of a nominated person, a notice specifying that fact and the position held by that person must be displayed prominently at the premises.

Where the temporary event notice or a notice specifying the nominated person is displayed, a constable or an authorised person (for example, a licensing officer, fire officer or environmental health officer) may



# **APPENDIX B**



**Sussex Police**  
Serving Sussex

[www.sussex.police.uk](http://www.sussex.police.uk)

## Brighton & Hove Licensing Unit

Fourth Floor  
Police Station  
John Street  
Brighton  
BN2 0LA

Tel: 101 ext 550828

Email: [brighton.licensing@sussex.pnn.police.uk](mailto:brighton.licensing@sussex.pnn.police.uk)

*VALID OBJECTION*  
*PS*  
*PN*  
*CD.*

10<sup>th</sup> March 2016

The Licensing Technical Support Officers

Environmental Health, Brighton & Hove City Council  
Bartholomew House, Bartholomew Square  
Brighton, East Sussex  
BN1 1JP

**RE: TEMPORARY EVENT NOTICE FOR THE PREMISES CHAPTER XIII, 11-12 POOL VALLEY, BRIGHTON, BN1 1NJ – 29<sup>th</sup> OCTOBER 2016**

**NOTICE OF OBJECTION under Section 104 (2) of the Licensing Act 2003**

To whom it may concern,

Notice of objection is hereby given on behalf of the Chief Officer of Police for Sussex for the above Temporary Event Notice (TEN) on the grounds of the prevention of crime and disorder, public safety and public nuisance.

The TEN seeks to have the timing from 15:00 to 01:00 with licensable activities including the sale by retail of alcohol, supply of alcohol by or on behalf of a club, provisions of regulated entertainment and the provision of late night refreshment with the event described as a Halloween party on the 29<sup>th</sup> October 2016.

On the 6<sup>th</sup> August 2016, Chapter XIII had a TEN in place for the art gallery during Pride for the hours of 16:00 to 01:00. It was stated on the TEN that 100 people would be in attendance and it was confirmed via email that it would be a guest list only event with wristbands given out and a minimum of 2 SIA door staff would be in attendance. Police officers were asked to attend the location after reports of a large sound system starting up in Pool Valley. When officers arrived they stated they could see in excess of 400 people standing around the National Express depot with most people standing outside of Chapter XIII. There was a three storey scaffolding tower that housed a DJ deck on the top level and large speakers.

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

Telephone: 101 | 01273 470101

Email: [brighton.licensing@sussex.pnn.police.uk](mailto:brighton.licensing@sussex.pnn.police.uk)

Officers spoke to Jessica Stocker who was the applicant of this TEN and at this time witnessed alcohol being sold out of a window of the venue. It was stated that the venue had security staff in attendance but officers could not see any and felt that there was no way security would be able to control the numbers in attendance. The applicant was then asked by Sussex Police to close the event down which was completed by a staged closure because this unplanned event was likely to undermine the licensing objectives. Jessica Stocker told the attending police officers that she had discussed and received permission from National Express to use the land, however when officers liaised with National Express on the day they had no knowledge of this agreement.

The Chief Officer of Police contends that permitting the premises to be used in accordance with the notice is likely to lead to crime and disorder and cause public nuisance. There are also concerns for public safety due to the issues with the premises most recent Temporary Event Notice. We therefore ask that a Counter Notice is issued by the Licensing Authority Committee.

I confirm that a copy of this objection letter has been sent by post to the applicant at their home and business address and every other 'relevant person'.

Yours sincerely,

Nev Kemp  
Chief Superintendent  
Divisional Commander  
Brighton & Hove Division

Please address all future correspondence to Brighton & Hove Licensing Unit, 4<sup>th</sup> Floor, Police Station, John Street, Brighton, BN2 0LA.

cc: Environmental Health Noise Team, Brighton & Hove City Council.







# **APPENDIX C**

