




Brighton & Hove
City Council

Licensing Panel

(Licensing Act 2003 Functions)

Title:	Licensing Panel (Licensing Act 2003 Functions)
Date:	30 October 2018
Time:	10.00am
Venue	Hove Town Hall, Room G90 - Council Chamber
Members:	Councillors: Hyde, Knight and O'Quinn
Contact:	Gregory Weaver Democratic Services Officer 01273 29-1214 greg.weaver@brighton-hove.gov.uk

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AGENDA

54 TO APPOINT A CHAIR FOR THE MEETING

WELCOME & INTRODUCTIONS

55 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.

56 SEVEN CELLARS LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

Contact Officer: Dean Love

Tel: 01273 295347

Ward Affected: St Peter's & North Laine

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

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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For further details and general enquiries about this meeting contact Gregory Weaver, (01273 29-1214, email greg.weaver@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Monday, 22 October 2018

Licensing Panel (Licensing Act 2003 Functions)

Agenda Item 56
Brighton & Hove City Council

Subject:	Application for a Variation of a Premises Licence under the Licensing Act 2003		
Premises:	Seven Cellars 104A Dyke Road Brighton BN1 3JD		
Applicant:	Louise Oliver		
Date of Meeting:	19 October 2018		
Report of:	Executive Director of Neighbourhoods, Communities & Housing		
Contact Officer:	Name:	Mark Savage-Brookes	Tel: (01273) 292100
	Email:	mark.savage-brookes@brighton-hove.gcsx.gov.uk	
Ward(s) affected:	St. Peter's And North Laine		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 To determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for Seven Cellars.

2. RECOMMENDATIONS:

- 2.1 That the Panel determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for Seven Cellars.

3. CONTEXT/BACKGROUND INFORMATION & CONSULTATION

- 3.1 The application is for a Variation of a Premises Licence under the Licensing Act 2003. The application described the nature of the variation as follows:

We are open from 11:00 until 20:00 Monday - Friday and from 10:00 until 20:00 on Saturday, and 11:00 to 20:00 on Sunday. I wish to extend the opening hours to close at 22:00 hours. I also wish to remove the restriction on the licence which forces customers to make purchases of more than one can of beer at a time. I feel this is an unnecessary restriction because the majority of the beers for sale are craft beer with an average price per can or bottle of £3-4. Some cans are as much as £6.50. I do not wish to continue to ask customers to buy 2 cans. Some people are not able to do this because it is too expensive. I also wish to show on record the updated floor plan of the shop to reflect how it looks currently.

3.2 Summary table of existing and proposed activities.

	Existing	Proposed
M) Supply of Alcohol	Monday – Saturday 10:00 to 20:00 Sunday 11:00 to 20:00 Off the premises	Monday – Saturday 10:00 to 22:00 Sunday 11:00 to 22:00 Off the premises
O) Hours premises are open to public	Monday – Saturday 10:00 to 20:00 Sunday 11:00 to 20:00	Monday – Saturday 10:00 to 22:00 Sunday 11:00 to 22:00
P) Conditions removed as a consequence of the proposed Variation	No single cans of beer will be sold.	

3.3 The applicant provided a statement about the business within the application form, which is attached at Appendix A. The Operating Schedule (Section 16) of the application is attached at Appendix B and the new plan of the premises is attached at Appendix C. The existing licence is attached at Appendix D.

3.4 Special Stress Area: The premises falls within the Special Stress Area. This area is deemed an area of special concern in terms of the levels of crime, disorder, and public nuisance experienced within them. (See paragraphs 3.2 – 3.2.4)

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 Two representations were received. They were received from Sussex Police and The Licensing Authority.

3.7 Representations received had concerns about the extension of trading hours, with concerns relating to Prevention of Crime and Disorder and Prevention of Public Nuisance.

3.8 Full details of the representations are attached at Appendix E. A map detailing the location of the premises is attached at Appendix F.

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.

3.2 Special Stress Area

The map below details the area of the Brighton city centre which borders the Cumulative Impact zone at 3.1.3 and which is deemed an area of special concern in terms of the levels of crime and disorder and public nuisance experienced within it. The area recommended for further monitoring and detailed guidance within the Special Policy comprise the following as pictured below delineated in purple:

Cumulative Impact and Special Stress Area



The Special Stress Area - an area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Holland Road northwards to its intersection with the north side of Lansdowne Road; eastwards to the junction with Furze Hill, along the north side Furze Hill to its end and then due east along Victoria Road to its junction with Montpelier Road (west side), north to where Montpelier Road joins Vernon Terrace then north to Seven Dials; north west along the west side of Dyke Road until the junction with the Old Shoreham Road, then East along the north side of Old Shoreham Road, north end of New England Road, across the north side of Preston Circus, eastwards along the north side of Viaduct Road, then at the junction with Ditchling Road, North East along the north side of Upper Lewes Road until the junction with Lewes Road; south along the Lewes Road to junction with Hartington Road, along the north side of Hartington Road until the junction with St. Helen's Road, south into

May Road, eastwards until its junction with Freshfield Road, then south into Upper Bedford Street, into Bedford Street to the mean water mark south of Bedford Street, then due west until the mean water mark south of Lower Rock Gardens.

- 3.2.1 This Special Stress Area (SSA) is of concern to the licensing authority because of the relatively high levels of crime and disorder and nuisance experienced within it. The area will be kept under review.
- 3.2.2 New and varied applications for premises and club premises certificates within the SSA will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas. Appendix A of the SoLP sets out a list of potential measures the licensing authority considers may be appropriate. These may be more or less appropriate depending upon the style of operation applied for.
- 3.2.3 On receipt of any application in the SSA, where a relevant representation has been made, the licensing authority will scrutinise the application carefully and will look at the measures proposed in the operating schedules and compare them to the measures set out in Appendix A, Licensing Best Practice Measures. Where discretion has been engaged, those applications which fall short may be refused or conditions applied to comply with policy measures.
- 3.2.4 The Licensing Authority will keep the Cumulative Impact Zone and Special Stress Area under review. Should the authority find that problems of crime and disorder or nuisance are not improving, or are worsening, the Special Policy will be reviewed.

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)

	Cumulative Impact Area	Special Stress Area	Marina	Other Areas
Restaurant	Yes (midnight)	Yes (midnight)	Yes	Yes (midnight)
Café bar	Yes (11.30)	Yes (midnight)	Yes	Yes (midnight)
Late Night Takeaways	No	Yes (midnight)	Yes	Yes (midnight)
Night Club	No	No	Yes	No
Pub	No	Yes (11pm)	Yes	Yes (midnight)
Non-alcohol lead (e.g. Theatre)	Yes (favourable)	Yes (favourable)	Yes	Yes (favourable)
Off-licence	No	No	Yes	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	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.
- 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.

3.5 Off licences

- 3.5.1 In recent years there has been a noticeable shift towards more people buying alcohol from shops and drinking at home before going out prior to going into premises such as pubs and clubs. The council is concerned that alcohol loading from off-licence sales is a significant problem in the city and adversely affects the licensing objectives as it gives rise to problems of drunkenness, disorderly behaviour and a higher risk of alcohol sales to children. Representations from the police, local residents and the director of public health at licensing panel hearings have testified to these problems and Information published in the Public Health Framework for assessing alcohol licensing presents a ward by ward analysis of crime and disorder and health data which is relevant in this respect.
- 3.5.2 The special policy on cumulative impact and the special stress areas apply to off-licences as explained in the matrix approach at 3.3. But in general where applications are made for new premises or variations to existing licences, and where the police or others make representations against the grant of a further

licence for off sales, the council will give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption off the premises. Decisions will be grounded in the Public Health Framework for assessing alcohol licensing. The council will want to be assured that the operating schedule of premises, and their overall management, training and levels of staffing, are appropriate to ensure that the licensing objectives are promoted in what may be challenging circumstances. Retail outlets and stores where the provision of fresh produce is the principle product sold maybe considered more favourably.

3.5.3 The Licensing Authority encourage off licences to join the Council led “Sensible on Strength” scheme to reduce the availability of cheap super strength beers and ciders. Off licences voluntarily sign up not to sell cheap super-strength beers and ciders over 6% ABV and operate good practice measures (see 3.5.4), for which they receive an accreditation as a responsible retailer.

3.5.4 Areas of best practice that may be included in an Operating Schedule include;

- the installation of a digital CCTV system by liaison with, and to a standard approved by Sussex Police
- Challenge 25 policy
- Refusals system
- Documented staff training including underage sales, drunkenness and proxy sales
- Voluntary restriction of high strength alcohol - operating schedules may be used to limit high ABV beers and ciders
- BCRP membership (or other accredited scheme)
- No sale of single cans
- Displays should not be located at the entrance/exit points or near checks out

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.

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

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.

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).
- 6.1.6 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).

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: 02/10/18

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: 03/10/18

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 – Statement from applicant about variation
2. Appendix B – Operating Schedule (Section 16) of the Application
3. Appendix C – Plan of Premises
4. Appendix D – Part A of current Premises Licence
5. Appendix E – Representations
6. Appendix F – Map of area

Documents in Members' Rooms

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2016 as amended 24th March 2016.

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

Public Health Framework for assessing Alcohol Licensing. Annual Report – Ward. 3rd edition. Public Health Intelligence. October 2017

Background Documents

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2016 as amended 24th March 2016.

APPENDIX A - Statement from applicant about variation

I am seeking to extend the current licensing hours from closure at 20:00 to 22:00 hours on every day of the week. We would like to persuade you that we are an extremely responsible retailer of alcoholic products and our drinks are high end, craft products and so do not appeal to anyone seeking to drink on the streets, we feel strongly that by requesting this extension of hours we would not add to any additional stress on the special area which we are a part of and so this exceptional request to be granted permanently extended hours should be given.

Additionally, Currently, the licence states that we cannot sell any single cans of beer. Whilst I can agree on paper, it looks as though this is a good idea to curb any potential street drinking, my view is that it is unnecessary in view of my particular premises as we do not have any problems with street drinking and I'd like to explain why.

I raise the following supporting points but first acknowledge council and police concerns surrounding alcohol abuse and 'street drinking' where high strength beer and cider is being consumed. In no way do we want to burden these realities.

The type of product that is potentially being used and abused and which provides the catalyst for anti-social behaviour is not a product type we stock or have any intention of stocking. There are some clear differences around the 'craft' beers we currently sell in can and other mass produced canned alcoholic products – regardless of how many cans we sell. There are also clear differences in the types of consumers.

1. The type of products we sell

Small production, organic, biodynamic and sustainable, eco wines. These wines range in price from £8 - 185.00 the sort of customer seeking to cause trouble is not someone who comes into the shop to buy our wine.

Craft beer production predominantly concerns ales – pale ales, bitters, Indian pale ales, stouts etc. An ale and a lager differ but both fall under the moniker of 'beer', though they are made differently, resulting in a different end product. An ale (or craft beer) houses more aroma, flavour and variability of style for the consumer. To enjoy properly the customer needs to pour into a glass, it is not meant to be drunk from the can or bottle. To do so would also be a waste of money for what is a premium priced product.

Mass produced canned lagers (or cider for that matter) would more likely be present where there is outdoor drinking and / or anti-social behaviour taking place as they are readily consumed from the can. We do not sell any of these products at all.

As it stands we sell approximately 150 speciality bottled and canned ales (or beers as people refer to them) most of which are in 330ml formats.

2. Price

This is a key point. Craft beer cans are 330ml and 440ml n size (or 335ml if a US imported beer). The price will be in the region of £3 to in excess of £5 or £6 for a higher ABV product or if it's a limited edition beer or if they are a very small micro-brewery soaking up greater overheads.

An example product we currently sell is an ale called Clawtrack from a brewery called Buxton. This comes in a 440ml can and costs £5.05 per can.

Surely an individual drinking with the intention to become intoxicated and drinking in the street will take the cheapest route to achieve that. These beers are not made to be consumed from the can. They are artisanal products, meant to be consumed in the right way, from the correct glassware, at the right temperature, and certainly not directly from a can.

We have customers in our shop being forced to buy two products with a high average price despite only wanting to buy one can to be consumed at home. I hope you can recognise the difference between our products and an ordinary off-licence selling cheap mass produced beers.

3. Consumer audience

Over the past 6 or 7 years the UK craft beer market has boomed and in the past year or so many breweries through a combination of production economics and consumer desire have started to can their product. Many speciality beers that breweries first bottled are now canned.

From experience I have worked in the industry for the past 7 years and the buying audience for these premium priced speciality products are predominantly, though by no means exclusively, males in their mid-twenties to 40 yrs and upwards with some disposable income and whom you might say

are relatively affluent. They are buying these products to consume at home or at a friend's; much like you would a decent bottle of wine. It is wholly insufficient to insist these people buy more than one can of beer when they are in the shop, and looking to enjoy the product at home after a long day at work. Insisting on them buying 2 cans is very annoying to the customer when they are buying one can as a treat.

To summarise, we are wholly committed to selling every single product we stock in a responsible manner and by no means are we interested in selling what I honestly view as poor quality products for consumption on the street. The current stipulations around purchasing more than one canned products is making life difficult for us and I believe unnecessarily so. There are absolutely no macro canned products in the shop. There is not one single can of Carling, fosters, Stella, and certainly nothing that can be described as a "scrumpy-jack style canned super strength cider". We simply don't sell it. We will never sell these "macro products".

It's not the quantity of cans that should be the focus here but acknowledgement of the contrast in products we sell as opposed to a pile it high, sell it cheap off-licence and the different markets they appeal to.

We are a small business and it's a critical time for us. Having received an overwhelmingly positive response from the local community our outlook is focused on quality over quantity and with that goes responsible drinking.

APPENDIX B - Operating Schedule (Section 16) of the Application

Section 16 of 18

LICENSING OBJECTIVES

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

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

We take the licensing objectives extremely seriously, and take steps to train all staff to understand the conditions on the licence, specifically we have our range of craft spirits away from the customers behind the counter and beyond arms reach. In specific details follows our active promotion of the 4 licensing objectives.

b) The prevention of crime and disorder

digital CCTV is held in accordance with requirements and stored for 31 days with dates and times. It is high definition operated and maintained at all times, including a remote monitored service 24 hours per day. The system records constantly and works at all lighting levels. Key staff are trained to download images and will co-operate where necessary with Sussex Police upon request. Any breakdown in service is corrected immediately and we have a contract to upkeep the system so it is always in operation.

c) Public safety

We received a 5* rating for our up-keep of stock, we rotate our beer cans and bottles weekly and ensure our stock is regularly updated. Very occasionally we write off stock if it is past the sell-by date. We do not ever sell this out of date stock. We clean the premises weekly, have a first-aid kit available and prominently displayed. We use the consultancy of the company ABC worksafe to give advice on health and safety.

d) The prevention of public nuisance

We display sign-age which asks customers to remain respectful and quiet upon leaving our premises. We turn the outside lighting off on leaving the premises so as not to interfere with the residents enjoyment of the area at night time.

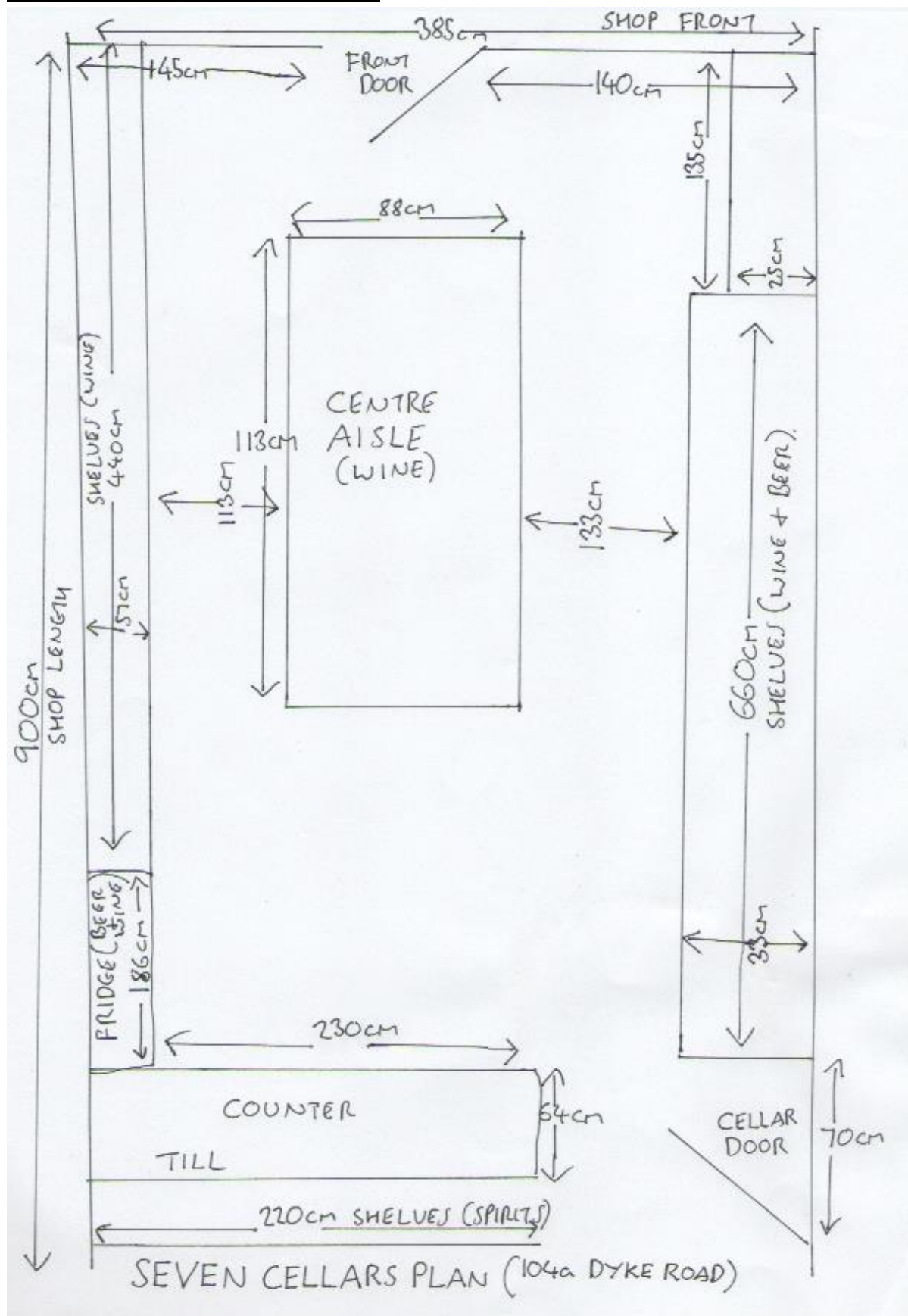
e) The protection of children from harm

The premises licence holder shall ensure that all staff members engaged or to be engaged in selling alcohol will receive training. Training will take place prior to the selling of such products. Refusing the sale of alcohol to a person who is drunk, specifying and checking ID if a person appears to be underage.

Verbal reinforcement/refresher training will be given covering the training at regular intervals - 8 weeks intervals and recorded. We operate a challenge 25 policy at all times. We ask for photographic ID in any case where the customer appears to be under 25. We prominently display "challenge 25" posters in the premises. Soft drinks are kept separately from alcoholic beverages.

We are taking advantage of a council run course on 11th September for all our staff to receive training on our premises.

APPENDIX C - Plan of Premises



APPENDIX D – Part A of current premises Licence

**Schedule 12
Part A**

Regulation 33, 34

**Premises Licence
Brighton and Hove City Council**

Premises Licence Number

1445/3/2018/01987/LAPREV

Part I – Premises Details

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

Seven Cellars
104A Dyke Road
Brighton
BN1 3JD

Telephone number 01273 602687

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 to Saturday 10:00 - 20:00

Sunday 11:00 - 20:00

The opening hours of the premises

Monday - Saturday 10:00 - 20:00

Sunday 11:00 - 20:00

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

Alcohol is supplied for consumption off the Premises.

Part 2

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

Louise Oliver
149 Eastern Road
Brighton
BN2 0AG

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

Louise Oliver

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

Party Reference: 2014/04080/LAPER

Licensing Authority: Brighton & Hove City Council

Annex I - 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
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.

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

(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:

- I. No beers or cider with an ABV content exceeding 6% will be sold other than premium speciality beer, lager, or cider.

2. All spirits in the public area of the shop will be displayed behind the counter and beyond arms reach of customers.
3. No single cans of beer will be sold.

Prevention of Crime and Disorder:

4. Digital CCTV and appropriate recording equipment to be installed, in accordance with Home Office Guidelines relating to the 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 is in operation.
5. The CCTV cameras and recording equipment must be sufficient quality to work in all lighting levels inside the premises at all times.
6. CCTV footage will be stored for a minimum of 31 days.
7. 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.
8. The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
9. 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.
10. Any breakdown or system failure will be remedied as soon as practicable with actions taken in this regard being recorded.
11. Authorised staff employed in the role of licensing officer shall have the right of access to the licensed premises during hours of operation for the purpose of inspection of the premises and premises records in order to ensure the promotion of the licensing objectives.

Public Safety:

12. Spillages and any broken glass will be cleaned immediately.
13. An accident book will record any incidents.

Prevention of Public Nuisance

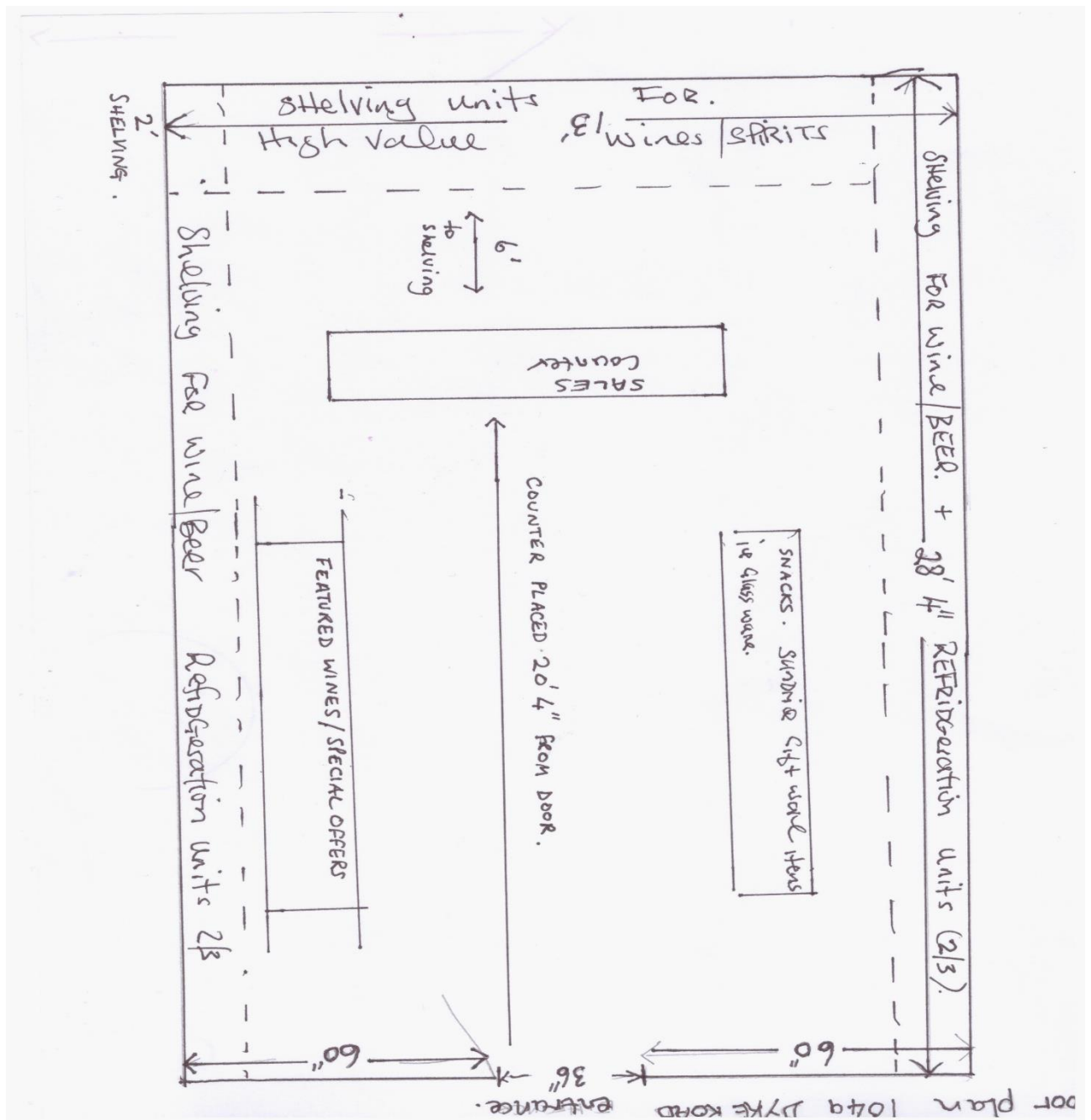
14. A contact number will be clearly displayed to use for reporting any noise disturbances.
15. External lighting will be switched off when the shop is closed.
16. A clear notice will be displayed reminding people to leave the premises in a quiet, respectful and orderly manner.

Protection of Children from Harm:

17. 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:
18. The lawful selling of age restricted products
19. Refusing the sale of alcohol to a person who is drunk
20. Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed eight weeks, with the date and time of the verbal reinforcement/refresher training documented.
21. 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 Brighton & Hove Weights & Measures Officers upon request.
22. 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, 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.
23. Signage advertising the "Challenge 25" policy will be displayed in prominent locations inside the premises.
24. The premises shall at all times maintain and operate refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor at intervals of no less than 4 weeks and feedback given to staff as relevant. This refusals book shall be available upon request to police staff, local authority staff and Weights and Measures officers.
25. Alcoholic drinks such as beers and wines will be kept in a separate area away from soft drinks.

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

Annex 4 – Plans



APPENDIX E - Representations

Police Station
John Street
Brighton
BN2 0LA

12th September 2018

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

MSB CON ENDS 29.09.18 VALID PCD (A)

Dear Mark Savage Brookes,

RE: APPLICATION FOR A NEW PREMISES LICENCE FOR SEVEN CELLARS, 104A DYKE ROAD, SEVEN DIALS, BRIGHTON, BN1 3JD UNDER THE LICENSING ACT 2003. 1445/3/201805361/LAPREV.

I write on behalf of the Chief Officer of Police for Sussex to raise a representation against the grant of the above application on the grounds of the prevention of crime and disorder. We also make reference to the Brighton & Hove City Council (BHCC) Statement of Licensing Policy.

This is a proposed variation application in relation to the opening hours and permitted off sale hours of alcohol located along Dyke Road in an area defined as 'Special Stress Area' under the decision making matrix within the SoLP. The application seeks the following licensable activities and timings:

Supply of alcohol (Off Sales)

Monday - Saturday: 10:00 – 22:00
Sunday: 11.00 – 22.00

Opening hours

Monday - Saturday: 10.00 – 22:00
Sunday 11.00 – 22.00

3.2.2 - New and varied applications for premises and club premises certificates within the SSA will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these area. Appendix A of the SoLP sets out a list of potential measures the licensing authority considers may be appropriate. These may be more or less appropriate depending upon the style of operation applied for.

The concerns Sussex Police have is that the premises is situated within the special stress area along Dyke Road. The locale of this premises has had a number of issues relating to anti-social behavior. This is also proven within the SoLP paragraph 3.2.1 which states “This Special Stress Area (SSA) is of concern to the licensing authority because of the relatively high levels of crime and disorder and nuisance experienced within it. The area will be kept under review.”

The licensing decision matrix on page 16-17 of the Council Statement of Licensing Policy (SoLP) states that new premises applications or premises licence variations asking solely for the ‘off’ sale of alcohol in the SSA are indicated as a ‘No’ under the matrix.

The applicant has also requested to remove condition three on their licence:

‘No single cans of beer will be sold’

With some consultation we have agreed the following, and Sussex Police raise no objection to the change of condition.

1. Only Premium, specialty Craft beers and Craft lagers may be sold in single containers, however no main stream branded Beers, lagers or ciders can be sold in single containers and must be sold in a minimum pack of 4.

Sussex Police consider that due to the location of this premises, the extension of hours may increase negative impact on the local area and in turn affect the promotion of the licensing objectives. We strongly believe that the application for the extension of hours should be brought before a council licensing committee and as such submit this representation.

Yours sincerely,

Inspector Di Lewis
Licensing and Response Inspector
Local Policing Support team

Please address all future correspondence to Brighton & Hove Licensing Unit, Police Station, John Street, Brighton, BN2 0LA.

Mr Mark Savage-Brookes
Licensing Authority
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BN1 1JP

Date: 24 September 2018
Our Ref: 2018/07014/LICREP/EH
Phone:
Email:

MSB CON ENDS 29.09.18 VALID PCD & PPN (B)

Dear Mr Savage-Brookes

Licensing Act 2003

**Representation in regard to the application to vary a Premises Licence under the Licensing Act 2003 (Ref: 2018/05361/LAPREV)
Seven Cellars, 104A Dyke Road, Brighton BN3 1JD**

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 for a variation to the existing licence to extend the sale by retail of alcohol hours as follows:

Supply of alcohol (Off Sales)

Monday - Saturday: 10:00 – 22:00
Sunday: 11.00 – 22.00

I have concerns about this application and make a representation on the grounds that it is made contrary to the council's Statement of Licensing Policy, specifically in relation to the Matrix decision making table regarding the Special Stress Area. Therefore this representation is made in relation to the Licensing Objectives of the Prevention of Crime and Disorder and Prevention of Public Nuisance.

The Council's Statement of Licensing Policy includes a Matrix approach for licensing decisions with provisions for a terminal hour for all classes of licensed premises in a particular area. The Matrix Model recognises the diverse operation and different risks presented by different classes of licensed premises. It provides a vision of what the licensing authority would like to see within its area and gives an indication of likelihood of success or otherwise to investors and local businesses making applications. Each application is still considered on its individual merit and there is discretion to depart from the policy where justified.

The decision-making Matrix on page 17 of the Council's Statement of Licensing Policy states that off-licences within the Special Stress should not be granted. The aim is to reduce availability of alcohol to address late-night street drinking, binge drinking and post-loading. There is an obvious disconnect in where alcohol is sold for off consumption and any subsequent nuisance or crime and disorder. Causality of alcohol sale, consumption, nuisance and impact is difficult to link back to the place where alcohol is purchased and consumed.

Guidance issued under S182 of the Licensing Act 2003 states in paragraph 8.41 that in completing an operating schedule, applicants are expected to have regard to the statement

of licensing policy for their area. The guidance goes on to say in paragraph 8.43 that applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a matrix-decision making policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application, any measures they will take to mitigate the impact, and why they consider the application should be an exception to the policy. On looking at the application form, particularly section 16 (licensing objectives), it seems to me that despite the applicant putting in some measures they still have not demonstrated a potential exception to our policy and has not addressed the extra hours being applied for.

The premises sit within the Special Stress Area (SSA) which as stated in our SoLP page 15 is deemed an area of special concern in terms of the levels of crime and disorder and nuisance experienced. 3.2.2 of our SOLP states that new and variation applications for premises within the SSA will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas.

However, the Policy is not absolute. Upon receipt of relevant representation, the licensing authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy. If an application is unlikely to add to the Special Stress Area (SSA), or the applicant has rebutted the presumption of refusal by demonstrating exceptional circumstances, then the licence may be granted.

I therefore make a representation on the grounds of the Prevention of Crime and Disorder and the Prevention of Public Nuisance to uphold our Statement of Licensing policy so that the panel can determine the application.

Yours Sincerely

Donna Lynsdale
Licensing Officer
Licensing Team

APPENDIX F – Map of Area



