



WORTHING BOROUGH
COUNCIL

23 April 2018

Licensing and Control Sub Committee

Date:	5 April 2018
Time:	6.30pm
Venue:	Council Chamber, Worthing Town Hall

Committee Membership: Councillors Paul High (Chairman), Sean McDonald, Bob Smytherman

Agenda

Part A

1. Declarations of Interest / Substitute Members

Members and officers must declare any disclosable pecuniary interests in relation to any business on the agenda. Declarations should also be made at any stage such an interest becomes apparent during the meeting.

If in doubt contact the Legal or Democratic Services representative for this meeting.

2. Public Question Time

To receive any questions from Members of the public in accordance with Standing Order 11.2

(Note: Public Question Time will operate for a maximum of 30 minutes.)

3. Licensing Act 2003 - Bar 42, Marine Parade - LA 2003 Premises Licence Variation Application

To consider a report by the Director for Communities, copy attached as item 3

Part B - Not for publication - Exempt Information Reports

None

For Democratic Services enquiries relating to this meeting please contact:	For Legal Services enquiries relating to this meeting please contact:
Chris Cadman-Dando Democratic Services Officer 01903 221364 chris.cadman-dando@adur-worthing.gov.uk	Ruth Pallister Solicitor 01903 221050 ruth.pallister@adur-worthing.gov.uk

Duration of the Meeting: Four hours after the commencement of the meeting the Chairperson will adjourn the meeting to consider if it wishes to continue. A vote will be taken and a simple majority in favour will be necessary for the meeting to continue.



**Licensing Act 2003
Application for a Variation of a Premises Licence under Section 34**

**'Bar 42'
42 Marine Parade
Worthing BN11 3QA**

Report by the Director for Communities

1. Recommendation

- 1.1 That a Sub Committee of Licensing & Control Committee "B" considers and determines the application made by:

Mr Mark Knowles

for a variation of the above Premises Licence (No. LN/100001133) which currently authorises the sale of alcohol for consumption on & off the premise and the provision of regulated entertainment at the above bar.

2. Reasons for the Hearing

- 2.1 The application has been the subject of formal representation by two responsible authorities and eight local residents and it therefore falls to this authority to determine the application.

3. Background

- 3.1 An application was made by Mr Knowles to the Licensing Authority, Worthing Borough Council, on the 6 February 2018 for grant of a full variation to his existing Premises Licence.
- 3.2 This premise has been operated for many years as a public house under various names and since 2011 under its current name of 'Bar 42'. It is situated on the very busy main coast road, Marine Parade, directly east of Montague Place in a terrace of residential flats and small businesses including another bar and a restaurant.
- 3.4 The bar was located on the ground and first floor of a converted end of terrace house with private living accommodation above and next door to the east.

Part of this application changes that with the bar's first floor toilets moving to the ground floor confining the business to the ground floor.

- 3.5 Mr Knowles has been the licence holder and Designated Premises Supervisor of the venue since April 2011 and in recent years the bar has become known for its staging of live music.
- 3.6 There is a history of complaint from neighbours regarding noise, the conduct of customers on the outside patio and persons gathering on the pavement outside the business but no offences have been substantiated.
- 3.6 The premises is currently authorised to provide:
- Alcohol sales from
 - 11:00hrs until 23:30hrs Sunday – Wednesday,
 - 11:00hrs until 00:30hrs Thursday
 - 11:00hrs and until 01:00hrs, of the following morning, Fri & Sat.
 - Regulated entertainment until 23:00hrs each night
 - Late Night Refreshment
 - 23:00hrs until 23:30hrs Sunday – Wednesday,
 - 23:00hrs until 00:30hrs Thursday
 - 23:00hrs and until 01:00hrs, of the following morning, Fri & Sat.
- 3.7 Attached to the report are:
- A plan of the area (Appendix A)
 - A plan of the bar as licensed & plan of the new layout (Appendix B)
 - A copy of the application (Appendix C)
 - A copy of the current premises licence (Appendix D)
 - Copies of the representations received from the responsible authorities (Appendix E1&2)
 - Copies of the representations received from local resident. (Appendix F 1-8)
 - Copy of mediation correspondents between applicant & Police (Appendix G)
 - Copy of applicants response to representations (Appendices H)

4. The Application

- 4.1 The application is attached at Appendix C. However, in summary, Mr Knowles is seeking to:
- Authorise alterations to the public areas of the premises in accordance with the plan submitted as part of a refurbishment.
 - Authorise the extension of the hours for recorded music until 01:00hrs, of the following morning, Thursday to Saturday.
 - Remove the following condition of licence:
 - Door supervisors shall wear suitably marked reflective jackets in order that they can be readily identifiable to customers, staff and the police.

- Amend the following condition of licence:
 - All regulated entertainment is to be controlled via a noise limiting device, set at a noise level of no greater than 90dB(A).

‘To make it more relevant to modern times’

No further changes to the hours for licensable activities, or changes to conditions of the licence are proposed by this application.

5. Promotion of the Licensing Objectives

5.1 The Licensing Act 2003 and regulations require that the Council, as local licensing authority, carries out its functions with a view to promoting the four licensing objectives:

- prevention of crime and disorder;
- prevention of public nuisance;
- protection of children from harm.

5.2 In carrying out its licensing functions, the licensing authority must also have regard to Guidance issued by the Home Secretary and its own Statement of Licensing Policy. Members are advised that the following sections of the Worthing Borough Council’s Policy may be particularly relevant to consideration of this matter, though of course the Policy in its entirety must be considered. Sections indicated relate to paragraph numbers in the Policy itself:

Prevention of Crime & Disorder

4.3 *In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself, the Guidance issued under section 182 to the Act and this policy. The Council will give "due regard" to all possible implications and its Licensing & Control Committee will always consider all the information available and relevant representations made, including those from the public and the responsible authorities, particularly the Police.*

4.8 *In addition to the requirements for the Council to promote the licensing objectives, it also has a duty, as detailed in paragraph 4.3, under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. The Council will consider attaching conditions to licences and permissions to deter and prevent crime and disorder within the vicinity if relevant representations are received. Whether or not incidents can be regarded as being in the vicinity of licensed premises is a question of fact and will depend on the particular circumstances of the case.*

4.9 *The Council recognises that the Licensing Act is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night time economy in town centres.*

Prevention of Public Nuisance

- 4.17 *Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of disturbances impacting upon people living, working or sleeping in the vicinity of the premises or wider afield.*
- 4.18 *Noise disturbance can arise from entertainment or activities held within licensed premises and also from people or motor vehicles outside licensed premises. The Council will expect Operating Schedules to address these issues. Advice and guidance can be obtained from Licensing Officers or the Council's Environmental Protection Team. If representations are received the Council may utilise appropriate conditions to control noise disturbance and the use of such conditions will depend upon the activities/entertainment/hours of operation proposed; the nature of the locality; and existing background noise levels and ambient noise levels. Noise control conditions may include the satisfactory sound insulation of licensed premises; compliance with maximum noise levels; and limiting hours of operation.*
- 4.19 *When addressing public nuisance the applicant should initially identify any particular issues (having regard to their particular type/construction of their premises, proposed activities and nature of locality) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's Operating Schedule.*
- 4.23 *The Council will consider attaching conditions to licences and permissions to prevent public nuisance, but will seek to avoid duplication with the requirements of other regulatory regimes.*

5.3 Regulated Entertainment

The Live Music Act 2012 and the Legislative Reform (Entertainment Licensing) Order 2014 have deregulated the provision of regulated entertainment in public houses in certain circumstances. The following sections of the 'Revised Guidance issued under section 182 of the Licensing Act 2003 - March 2015' are considered relevant to this application:

Live music

15.26 *Live music is licensable:*

- *where a performance of live music – whether amplified or unamplified – takes place before 08.00 or after 23.00 on any day;*
- *where a performance of amplified live music does not take place either on relevant licensed premises, or at a workplace that is not licensed other than for the provision of late night refreshment;*
- *where a performance of amplified live music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;*
- *where a performance of amplified live music takes place at relevant licensed premises, or workplaces, in the presence of an audience of more than 500 people; or*
- *where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act when imposing a condition*

on a premises licence or club premises certificate as a result of a licence review.

Recorded music

15.33 *No licence is required for recorded music where it takes place on premises which are authorised by a premises licence or club premises certificate to be used for the supply of alcohol for consumption on the premises. However, recorded music remains licensable:*

- *where the playing of recorded music takes places before 08.00 or after 23.00 on any day;*
- *where the playing of recorded music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;⁵⁷*
- *where the playing of recorded music takes place at relevant licensed premises in the presence of an audience of more than 500 people; and*
- *where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act (as amended).*

6. Consultation

6.1 The application has been subject to the statutory consultation and statutory public advertisement arrangements in accordance with the provisions of the Act, in respect of which representations have been received from the following:

- Members of the public – Eight representations
- Responsible Authorities – Two representations.

7. Relevant Representations

7.1 Details of the representations received are reproduced in full at Appendices E & F. The comments made objecting are considered to relate to the statutory licensing objectives as follows:

- Prevention of Crime & Disorder
- Prevention of Public Nuisance.

7.2 Sussex Police made representation against the grant of parts of the variation application on the grounds of the licensing objectives of the Prevention of Crime & Disorder, and Public Safety though Sussex Police acknowledge that relocating the WCs downstairs within the premises is beneficial.

7.3 The Environmental Protection Team have expressed concerns that the application does not adequately address the objective of the prevention of public nuisance caused by noise and that if the variation is granted as applied for a public nuisance would be caused to residents within the vicinity of the bar.

7.4 Eight local residents expressed concerns regarding the noise and disturbance associated with the venue and requested the extended hours for recorded music be refused. Members have been supplied with copies of the letters in their entirety. Some of the content is related to disturbance caused in the street or on the premises' patio but some refers to music noise. However, whilst some of this information is irrelevant to this application, nothing has been excluded from the letters. Consequently members are reminded that they will need to consider carefully the weight, if any, they apportion to some of the information and tie it to what is actually being applied for .

7.5 All parties have been invited to attend the Sub-Committee and included in this report are the letters of representation reproduced in full.

8. Mediation

8.1 The Licensing Act 2003 encourages mediation.

8.2 Sussex Police and the applicant have been in mediation and have come to an agreement. The following part of the application has been withdrawn and will remain on the licence:

- Such door supervisors shall wear suitably marked reflective jackets in order that they can be readily identifiable to customers, staff and the police.

And the following conditions have been volunteered to the operating schedule should members be of a mind to grant a variation:

- A toilet attendant will be employed to work in the toilet lobby area from 21.00pm until close on Friday & Saturday (plus Xmas Eve and New Year's Eve). He/ she will also be employed on other days as per the risk assessment of that particular night. The risk assessment will consider pre-event ticket sales and social media reaction to an event.
- The corridor will have doors 6 feet apart with toughened glass windows so can be monitored from both toilet attendant and sound tech in the main room. The doors that are shown on the plan are there for sound proofing but testing of their impact will take place once the premises reopens and a decision made as whether it might be possible to remove a door to make monitoring easier if noise to the outside of the building is not compromised.

These would become enforceable conditions of any licence variation granted and consequently Sussex Police have withdrawn their representation.

8.3 I am aware that the applicant has requested a meeting with the Environmental Pollution Team to mediate but at the time of the drafting of this report no further information was available. Members will be updated in due course.

8.4 The applicant has invited those making representation to meet with him but considering the nature of the public representations made a mediated

agreement is considered unlikely but Members will be updated of any developments.

9. Consideration

9.1 Members must take into consideration the following when determining this application:

- The four statutory licensing objectives
- Worthing Borough Council's Statement of Licensing Policy
- Guidance issued by the Home Secretary
- Relevant representations made by all the parties
- The results of the mediation that has taken place

9.2 These are the only matters to be addressed by the authority when considering this application. The statutory licensing objectives are the only grounds on which representations can be made, and the only grounds on which an authority will be able to refuse an application or impose conditions in addition to statutory conditions and those proposed by the applicant in the Operating Schedule.

9.3 When considering this application for a variation to the premises licence, pursuant to section 35 of the Act the following options are available to the Sub-Committee:

- a. Grant the variation, as requested,
- b. Grant the variation as requested, with additional conditions appropriate to the promotion of the specific licensing objectives on which relevant representations have been received.
- c. Reject the whole or part of the application.

9.4 Members are required to give reasons for their decision.

10. Legal Implications

10.1 Under Section 181 and Schedule 5 of the Act, rights of appeal to the Magistrates' Court in respect of applications for variation of an existing licence include:

- (1) The applicant / licence holder may appeal against any decision to modify the conditions of the licence.
- (2) The applicant may appeal against a rejection in whole or part of an application.
- (3) Those that have made relevant representations may appeal against a variation being granted, rejected, or against the modification or lack of modification of any conditions.

10.2 Members are reminded that the Act allows for the local licensing authority to undertake a review following the grant of a premises licence, when requested to do so by a responsible authority, such as the police, or the fire authority, or any other person, such as a resident living in the vicinity of the premises. The Government's guidance states: "*The proceedings set out in the 2003 Act for*

reviewing premises licences represent a key protection for the community where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring. It is the existence of these procedures which should, in general, allow licensing authorities to apply a light touch bureaucracy to the grant and variation of premises licences by providing a review mechanism when concerns relating to the licensing objectives arise later in respect of individual premises.”

- 10.3 In determining this application, the principles of the Human Rights Act 1998 must be taken into consideration and the convention rights of both individuals and businesses will be given due weight.
- 10.4 Members must consider each application on its own merits, and in accordance with the principles of natural justice as well as the provisions of the Licensing Act 2003. All relevant factors must be taken into account, and all irrelevant factors must be disregarded.
- 10.5 All applications before Committee must be considered against the backdrop of anti-discriminatory legislation, such as the Equality Act 2010 and also in accordance with the Council's stated policy on Equal Opportunities.
- 10.6 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself. In giving "due regard" to these possible implications members will consider and weigh up all the information available and representations made, including those from the public and the responsible authorities particularly the Police.

11. Other implications

- 11.1 Any decision taken will have regard for the local environment and, in particular, any conditions attached for the purposes of preventing public nuisance will take this principle into account.

12. Recommendation

- 12.1 **Members are requested to determine the application made by Mr Mark Knowles for a variation to the Premises Licence at 'Bar 42', 42 Marine Parade, Worthing and give reasons for that determination.**

**Mary D'Arcy
Director for Communities**

Principal Author and Contact Officer:

Simon Jones
Public Health & Regulation Team Leader - Licensing
Telephone: 01273 263191

Background Papers:

- Licensing Act 2003
- Guidance issued under section 182 of the Licensing Act 2003
<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing>
- Worthing Borough Council's Statement of Licensing Policy
<http://www.adur-worthing.gov.uk/media/media,98561,en.pdf>

Appendices:

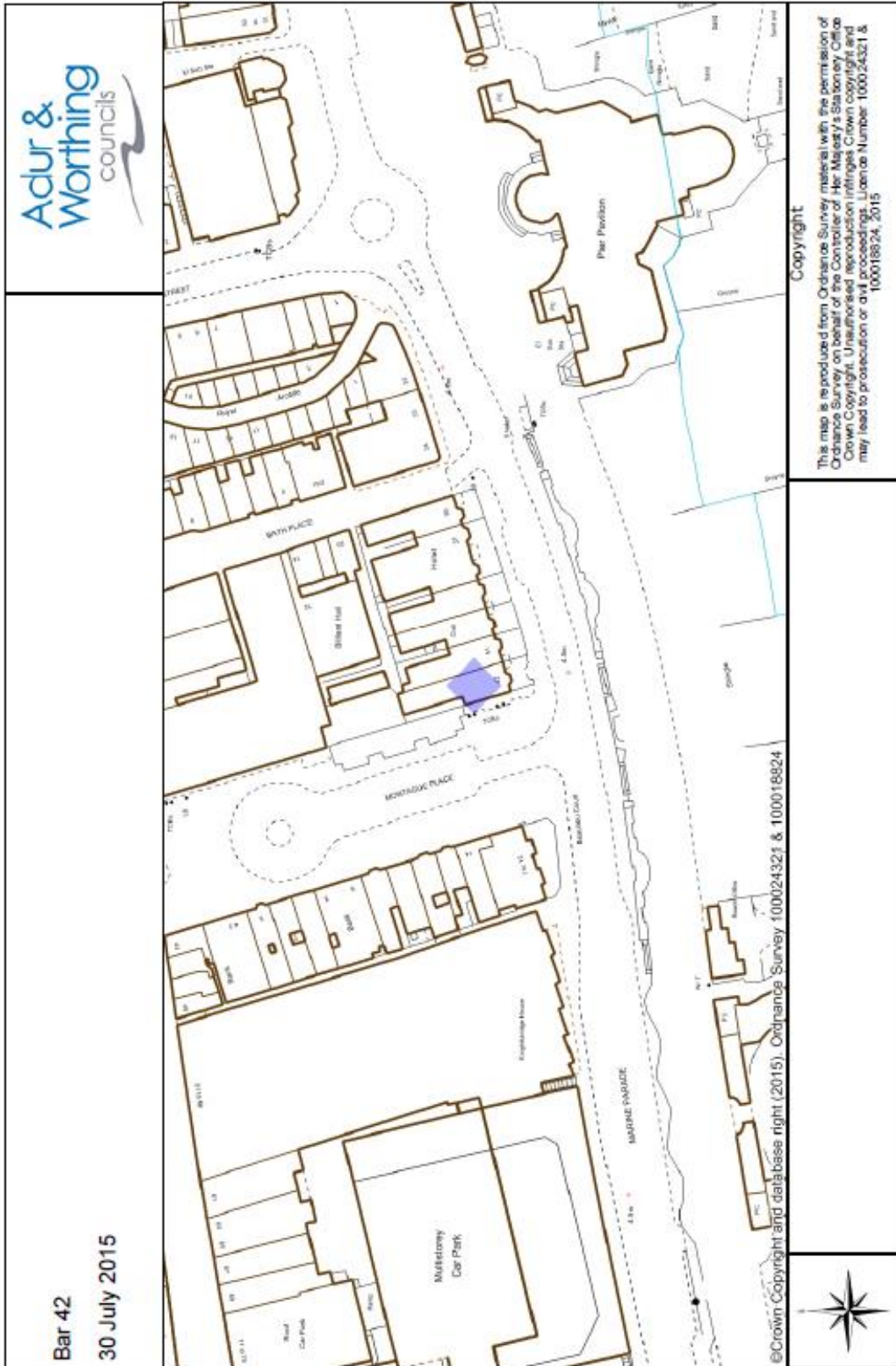
- Appendix A - Plan of area
- Appendix B – Plan of premise.
- Appendix C - Application Form
- Appendix D - Current Premises Licence
- Appendix E 1&2 – Representations from Responsible Authorities.
- Appendix F 1-5 - Representations from members of the public.
- Appendix G – Applicants & Police mediated agreement
- Appendix H – Applicants response to Representations

Public Health & Regulation – Licensing Team, Portland House, Worthing

Ref: SJ/Lic.U/LA03/Variation – Bar 42

Date: 19 March 2018.

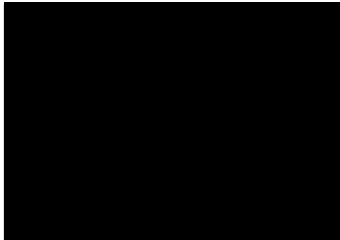
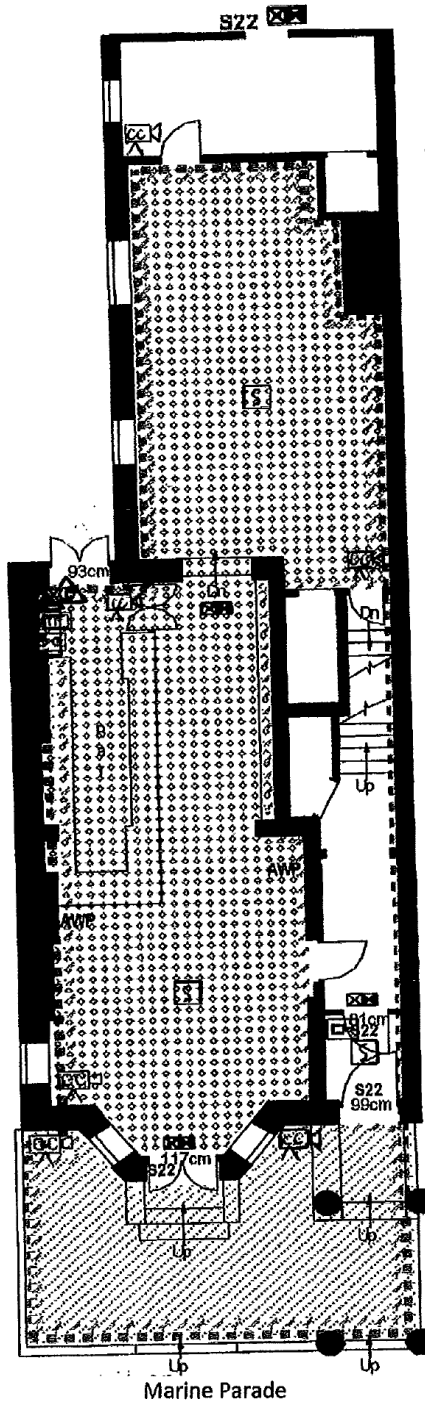
Appendix A – Map of Area



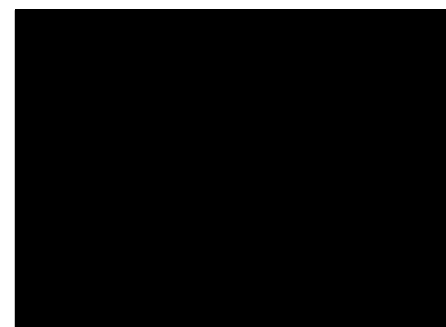
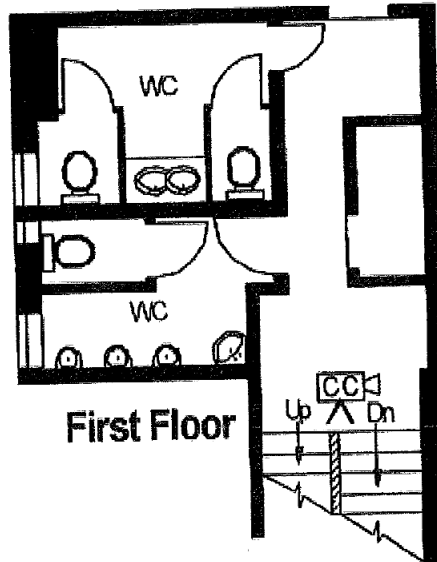
Appendix B – Existing Plan of Bar

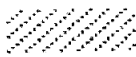
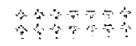










Bar 42 – 42 Marine Parade Worthing

Ground Floor



First Floor



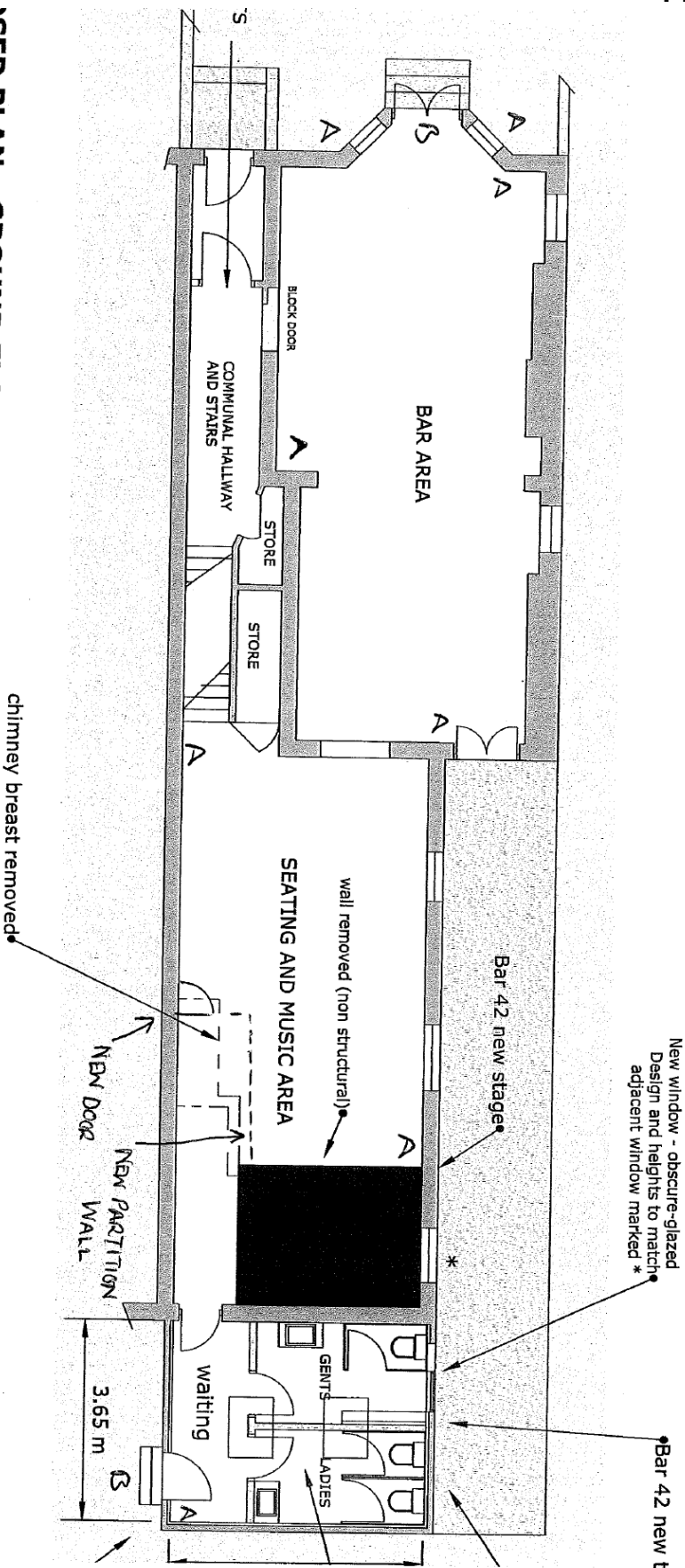
	Area for the Consumption of Alcohol
	Regulated Entertainment / Sale & Consumption of Alcohol
	Area for Late Night refreshment
	Carbon Dioxide Fire Extinguisher
	Water Fire Extinguisher
	Fire Exit Sign, Internally Illuminated
S22	Fire Exit
	Fire Alarm Control Panel with Sounder
	Smoke Detector
AWP	Amusement Machine with Prizes
	CCTV camera
	CCTV Monitor
	CCTV Recorder
	No Under 18's Allowed on Premises

SCALE 1:100

Proposed Plan of Bar

A = CCTV
 B = fire exit

PROPOSED PLAN - GROUND FLOOR BAR AREA





Public Health & Regulation, Portland House, 44 Richmond Road, Worth

Application for a full variation of a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/We MARK KNOWLES (insert name(s) of applicant) being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below.

Premises licence number LN/100001133

Part 1 - Premises Details

Postal address of premises or, if none, ordnance survey map reference or description: 42 MARINE PARADE
Post town: WORTHING
Post code: BN11 3QA

Telephone number at premises (if any)
Non domestic rateable value of premises

Part 2 - Applicant Details

Daytime contact telephone number
Email address (optional): 42worthing@gmail.com

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

Surname: KNOWLES
First names: MARIE ANDREW

Current postal address if different from premises address
Post Town

Part 3 - Variation

Please tick ✓

Do you want the proposed variation to have effect as soon as possible?

If not do when do you want the variation to take effect from?

Day	Month	Year

If your proposed variation would mean that 5000 or more people are expected attend the premises at any one time please state the number expected to attend

Please describe briefly the nature of the proposed variation (please read guidance note 1)

NEW PLANS FOLLOWING REFURDISHMENT
INCREASE HOURS OF RECORDED MUSIC TO 1AM
ON THURSDAY, FRIDAY & SATURDAY.
REWRITE CONDITION REGARDING NOISE LIMITING
DEVICE TO MAKE IT MORE RELEVANT TO
MODERN TIMES.
ASK POLICE TO CONSIDER REMOVAL OF
PROVISION FOR HIGH VIS TO BE WORN
BY SIA STAFF.

Part 4 - Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if the application to vary is successful.

Provision of regulated entertainment

Please tick ✓

- | | | |
|----|--|-------------------------------------|
| a) | plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) | films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) | indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) | boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) | live music (if ticking yes, fill in box E) | <input checked="" type="checkbox"/> |
| f) | recorded music (if ticking yes, fill in box F) | <input checked="" type="checkbox"/> |
| g) | performance of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) | anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

Provision of late night refreshment (if ticking yes, fill in box I)

Sale by retail of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 3)	Both	<input type="checkbox"/>
Tue					
Wed			State any seasonal variations for the playing of recorded music (please read guidance note 4)		
Thur		01.00			
Fri		01.00	Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list. (please read guidance note 5)		
Sat		01.00			
Sun					

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking

CONDITION 10

REMOVE "SUCH DOOR STAFF SHALL WEAR SUITABLY MARKED REFLECTING JACKETS IN ORDER THAT THEY CAN BE READILY IDENTIFIABLE TO CUSTOMERS, STAFF AND THE POLICE"

REMOVE CONDITION 1 & 2 - ADDING "NOISE LIMITING THROUGH INHOUSE PA SYSTEM"

Please tick ✓

I have enclosed the premises licence

✓

I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below

Reasons why I have failed to enclose the premises licence or relevant part of the premises licence

M

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

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

ALTHOUGH CAPACITY WILL INCREASE WE INTEND TO KEEP IT TO 100 INSIDE. EXTRA SEATING WILL REDUCE SPACE IN CERTAIN AREAS ~~TO~~ SO 100 WILL BE COMFORTABLE.

b) The prevention of crime and disorder

NEW TOILETS IN BETTER LOCATION REGARDING THE MONITORING OF CUSTOMERS AND ENFORCEMENT OF DRUG POLICY. EXTRA CCTV IN FOYER TO MONITOR SUSPICIOUS BEHAVIOUR

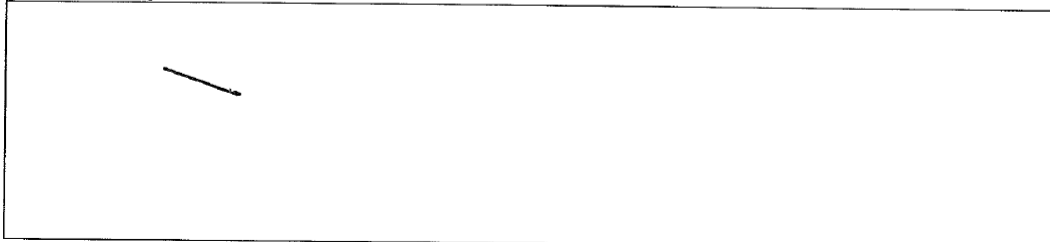
c) Public safety

NO STAIRS TO TOILET.
EXTRA FIRE EXIT AT THE REAR
EXTRA CCTV.

d) The prevention of public nuisance

PATIO CHECKS REGARDING NOISE MADE FROM RECORDED MUSIC WILL BE MADE BY DUTY MANAGER.

e) The protection of children from harm



Please tick ✓

- | | | |
|-----------------------------|--|-------------------------------------|
| <input type="checkbox"/> 11 | I have made or enclosed payment of the fee | <input checked="" type="checkbox"/> |
| <input type="checkbox"/> 12 | I have sent copies of this application and the plan to responsible authorities and others where applicable | <input checked="" type="checkbox"/> |
| <input type="checkbox"/> 13 | I understand that I must now advertise my application | <input checked="" type="checkbox"/> |
| <input type="checkbox"/> 14 | I have enclosed the premises licence or relevant part of it or explanation | <input checked="" type="checkbox"/> |
| <input type="checkbox"/> 15 | I understand that if I do not comply with the above requirements my application will be rejected | <input checked="" type="checkbox"/> |

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

Part 5 – Signatures (please read guidance note 10)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent. (See guidance note 11). If signing on behalf of the applicant please state in what capacity

Signature
Date
Capacity



**Licensing Act 2003 – Sections 16 and 18
Premises Licence – Part B**

Housing, Health and Community Safety
9 Commerce Way
Lancing
BN15 8TA

Premises Licence Number - LN/100001133

Premises Details

Postal address of premises or, if none, ordnance survey map reference or description	
Bar 42 42 Marine Parade Worthing West Sussex	
Telephone number	07717 826725

Licensable activities authorised by the licence
See attached Schedule

The times the licence authorises the carrying out of the licensable activities
See attached Schedule

Opening hours of the premises		
Location : Public House & Patio		
Day	Start	Finish
Sunday	09:00	00:00
Monday	09:00	00:00
Tuesday	09:00	00:00
Wednesday	09:00	00:00
Thursday	09:00	01:00
Friday	09:00	01:30
Saturday	09:00	01:30
Non Standard Timings & Seasonal Variations		
<ul style="list-style-type: none"> • Christmas Eve - 09:00hrs to 02:30hrs of the following morning • New Year's Eve - the premise may remain open from normal closing time to the normal opening time New Year's Day. 		

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

Premises Licence Holder Details

Name
Mr Mark Knowles

Registered Address
██████████ ██████ ██████████

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

Designated Premises Supervisor Details (Where the premises licence authorises for the supply of alcohol)

Name
Mr Mark Knowles

Personal licence number and issuing authority of personal licence held by Designated Premises Supervisor where the premises licence authorises the supply of alcohol
Personal Licence Number : ██████████
Licensing Authority : Worthing Borough Council

State whether access to the premises by children is restricted or prohibited
Restricted

Schedule 1 – Licensable Activities authorised by this Licence

Times the licence authorises the carrying out of the licensable activities

Location: Bar		
Activities: Alcohol ON&OFF Sales/Supply (M)		
Day	Start	Finish
Sunday	11:00	23:30
Monday	11:00	23:30
Tuesday	11:00	23:30
Wednesday	11:00	23:30
Thursday	11:00	00:30
Friday	11:00	01:00
Saturday	11:00	01:00
Non Standard Timings & Seasonal Variations		
<ul style="list-style-type: none"> • Christmas Eve - 11:00hrs to 02:00hrs of the following morning • New Year's Eve - from the end of normal permitted hours to the start of permitted hours New Year's Day. 		

Location: Bar		
Activities: Recorded Music (F)		
Day	Start	Finish
Sunday	12:00	22:30
Monday	11:00	23:00
Tuesday	11:00	23:00
Wednesday	11:00	23:00
Thursday	11:00	23:00
Friday	11:00	23:00
Saturday	11:00	23:00
Non Standard Timings & Seasonal Variations		
11.00hrs to 01.00hrs of the following morning:		
<ul style="list-style-type: none"> • Thursday, Friday & Saturday prior to a Bank Holiday • Christmas Eve 		
11.00hrs to 02.00hrs:		
<ul style="list-style-type: none"> • New Years Eve 		

Location: Bar		
Activities: Live Music (E) Dance Facility (J)		
Day	Start	Finish
Thursday	19:00	23:00
Friday	19:00	23:00
Saturday	19:00	23:00
Non Standard Timings & Seasonal Variations		
<ul style="list-style-type: none"> • The provision limited to not more than one occasion a month. 		

Location: Bar		
Activities: Music Making Facilities (I)		
Day	Start	Finish
Tuesday	19:00	23:00
Wednesday	19:00	23:00
Thursday	19:00	23:00
Friday	19:00	23:00
Saturday	19:00	23:00
Non Standard Timings & Seasonal Variations		

Location : Bar		
Activities : Late Night Refreshment (L)		
Day	Start	Finish
Sunday	23:00	23:30
Monday	23:00	23:30
Tuesday	23:00	23:30
Wednesday	23:00	23:30
Thursday	23:00	00:30
Friday	23:00	01:00
Saturday	23:00	01:00
Non Standard Timings & Seasonal Variations		
<ul style="list-style-type: none"> • Christmas Eve - 23:00hrs to 02:00hrs of the following morning • New Year's Eve - 23.00hrs to 05.00hrs New Year's Day. 		

<p>Signed on behalf of the issuing licensing authority</p> <p>Senior Licensing Officer</p> <p style="text-align: right;">Date : 4 November 2013</p>

Bar Forty Two

Annexe 1 : Mandatory Conditions

A. Mandatory conditions: 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 licence, 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.

B. Mandatory conditions: door supervision

Where employed each such individual must be licensed by the Security Industry Authority.

C. Mandatory conditions: Irresponsible promotions

The responsible person must take all reasonable steps to ensure that staff do not carry out, arrange or participate in any irresponsible promotions. An irresponsible promotion is one which encourages the sale or supply of alcohol for consumption on the premises and carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children.

Irresponsible promotions take a number of forms including Drinking Games, large Quantities of Alcohol for Free or A Fixed Price, Prizes and Rewards schemes, Sporting Event promotions and Posters & Flyers.

D. Mandatory conditions: Dispensing alcohol directly into the mouth

The responsible person must ensure that no alcohol is dispensed directly by one person into the mouth of another person.

*For example, this may include drinking games such as the 'dentist's chair' where a drink is poured continuously into the mouth of another individual and may also prevent a premises from allowing another body to promote its products by employing someone to dispense alcohol directly into customers' mouths.
An exception to this condition would be when an individual is unable to drink without assistance due to a disability.*

E. Mandatory conditions: Free tap water

Free tap water must be provided on request to customers where it is reasonably available on the premises.

F. Mandatory conditions: Age Verification

An age verification policy for the premises must be produced, implemented and details made available to authorised officers upon request.

G. Mandatory conditions: Small Alcohol Measures

Small alcohol measures must be made available.

For example: spirits: 25 ml or 35 ml; wine: 125ml glasses.

H. Permitted Hours

Alcohol shall not be sold or supplied except during the premise's permitted hours.

Annexe 2: Conditions consistent with the Operating Schedule

1. All regulated entertainment is to be controlled via a noise limiting device, set at a noise level of no greater than 90dB(A).
2. The sound limiter is to be tested and calibrated by a suitably qualified and competent person to ensure compliance with the levels stipulated by the Local Authority on the Premises Licence. Thereafter the limiter shall be tested and calibrated annually by a suitably qualified and competent person.
3. Doors and windows are to be kept closed after 23.00hrs during regulated entertainment.
4. The management is to regularly monitor the interior and exterior of premise to minimise noise pollution when regulated entertainment is being provided.
5. Signage is to be prominently displayed near exits requesting the public, residents and guests to respect the needs of local residents by quietly leaving the premises.
6. The venue 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 form of ID that will be accepted are passports, driving licences with a photograph or Portman Group, Citizen card or validate proof of age cards bearing the "PASS" mark hologram. Suitable and sufficient signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises.
7. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically in regard age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs. Induction training must be completed, and fully documented, prior to the sale of alcohol by the staff member and refresher training thereafter at intervals of no less than six months. All restricted sales training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, Licensing Authority and Trading Standards Officers upon request.
8. The licence holder shall at all times maintain and operate a sales refusals book and an incident log. These shall be reviewed by the Designated Premises Supervisor at intervals of no less than four (4) weeks and feedback given to staff as relevant. Both the refusal register and incident log will be kept on the premise to record all refusals and incidents of crime or disorder. These records will be made available to the authorised officers of the Licensing Authority and Police upon request
9. CCTV to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System. The system in operation is to cover all areas that

are open to the public. CCTV Images shall be retained for at least 28 days and except for mechanical breakdown beyond the control of the licence holder, shall be made available upon request to the police. Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable. It will be the responsibility of the DPS, or duty manager, to ensure that any request from the police for a recording to be made for evidential purposes, is carried out as soon as possible in compliance with data protection legislation.

10. Security Industry Authority (SIA) licensed door supervisors shall be deployed at the premises from 21:00 hours until 30 minutes after closing time on Friday & Saturday evenings when regulated entertainment is being provided. Door staff will also be employed on other occasions when such a requirement is either identified by the licence holder's own risk assessment or is requested by Sussex Police. (A minimum of 48hrs written notice required from the police licensing team). There shall be a minimum of one door supervisor to every 100 or part 100 customers plus one additional Door Supervisor at the main entrance. Those performing the role of Door Supervisor will not perform any other role when engaged for the purpose of door supervision activities. Door staff shall be fully briefed prior to work, with clear written instructions regarding their specific duties. Door staff will be made aware of individuals banned by Pubwatch. These records will be made available to the Licensing Authority and/or the Police upon request. Such door supervisors shall wear suitably marked reflective jackets in order that they can be readily identifiable to customers, staff and the police.
11. A documented risk assessment must be written and agreed by Sussex Police, which identifies the activities undertaken at the premises and the controls necessary to promote the licensing objectives. This will include when Polycarbonate drink vessels will be used both externally and internally. It will include written emendations demonstrating what considerations have been made for any additional special events which may arise during the year. This document shall be immediately available for inspection by the Police and the Licensing Authority, upon request.
12. No alcohol, for consumption away from the premises, may be removed from the premises after midnight, whether in an open or closed container.
13. No drinks will be allowed on terrace after midnight. No customers are to be permitted to use the external drinking area after 00.00hrs (midnight) on any night for any licensable activity or the consumption of alcohol. The use of the area for patrons to smoke beyond 00.00hrs (midnight) may be permitted but this activity must be monitored by a member of door staff to ensure that noise and disturbance is prevented.
14. A 30 minute period is to be provided after the terminal hour for the sale of alcohol to allow the premises to be cleared of the public.
15. The Licensees/DPS to maintain membership and attend meetings of Pubwatch so long as that organisation is in existence.
16. A drug prevention policy maintained.
17. All drinking glasses used on the premises are to be of toughened glass or polycarbonate.
18. Children (under 18) are not to be allowed in the bar after 21.00hrs except on 12 authorised occasions a year when access will be allowed to persons under 18 years of age up until 23.15hrs. Such occasions to be notified to the police licensing team in writing at least 48 hours in advance. On such occasions a wrist band will be required to purchase alcohol and

ID proving a person is over 18 will be required to obtain a wrist band. Anyone caught abusing the system will be ejected immediately from the premise.

19. AWP machines are to be sited in clear view of bar.

Annexe 3 : Conditions attached after hearing by the Licensing Authority

None

Annexe 4 : Plans

See attached revised plan certified and dated 4 November 2013.

Licensing Unit,
Adur and Worthing Councils
Portland House,
Richmond Road,
Worthing,
BN11 1LF



**West Sussex Division
Neighbourhood Licensing Team**

27th February 2018

**RE: APPLICATION FOR VARIATION OF A NEW PREMISES LICENCE UNDER THE LICENSING
ACT 2003 FOR BAR 42 MARINE PARADE WORTHING**

Dear Mr Jones,

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 licensing objectives of the Prevention of Crime and Disorder, and the Public Safety.

Sussex Police have considered this application which seeks to the licence: the current building work which will extend the area of the licensed premises thereby increasing the capacity; extend the licensable activities on Thursday, Friday and Saturday, and to re-word and remove conditions currently attached to the premises licence. There are a number of concerns regarding this application and indeed the management of the currently licensed premises.

On the 26th January 2018 at 23:10 hours Sussex Police licensing officers conducted a compliance visit to Bar 42 as part of an evening of ongoing licensing enforcement activity. It was during this visit that the building works were first disclosed by Mr Knowles, the Designated Premises Supervisor (DPS) & Premises Licence Holder (PLH). He was informed that he should contact Simon Jones the Local Authority Licensing Officer to submit an application to vary the premises licence prior to the building works commencing. He asked if this could be achieved through a minor variation but was advised otherwise.

During the visit Mr Knowles was asked to provide documentation to demonstrate compliance with the conditions of this licence. He was unable to do so. He remonstrated that as his staff were 'trained on the job' and therefore he did not have training records. He was advised this was a breach of the premises licence. He was asked for a copy of his incident log. He was unable to produce one, stating it was locked away and inaccessible due to the imminent building work. He was also asked for the bar staff's refusal register. He admitted he did not have one. It was also established that the SIA door supervisor did not have a log to record refusals or ejections. During these conversations it was difficult to be heard over the high volume of the recorded music. It was noted that there were no challenge 25 posters displayed and

that the door supervisor was not wearing a High Visibility fluorescent vest. These are all stipulated as conditions of the premises licence LN/100001133 issued by Worthing Borough Council.

The concerns highlighted to Mr Knowles were subsequently documented and a warning letter sent to him (a copy of the letter is attached) It was further discovered that Mr Knowles was also unable to produce a Drug Prevention Policy. He has since contacted this office seeking advice as to how to remedy this. He has now provided some documentation to address these failings which in his own words were *“this is the basics up and running so we can trade tonight”*

Part of this variation application seeks to remove part of condition 10 of the premises licence pertaining to the wearing of HI-Viz reflective jackets. This condition was identified as being breached during the licensing visit of 26th January 2018. Sussex Police consider that it is necessary that door supervisors are easily identifiable to patrons who may be seeking their assistance, and to members of the emergency services. This is also beneficial when reviewing CCTV footage (often black & white due to light levels) in identifying the door staff by their reflective clothing. Sussex Police therefore object to the removal of this part of condition 10 which promotes the licensing objectives of the prevention of crime & disorder and of public safety.

While it is appreciated that relocating the WCs downstairs within the premises is beneficial, there are concerns that this creates vulnerable areas in the corridor and waiting room. Although CCTV is offered, if this application is granted it is considered necessary that a toilet attendant or a SIA door supervisor needs to be located in the ‘enclosed mixed gender toilet lobby’ to prevent harm coming to persons waiting to use the facilities; to monitor intoxication levels and to disrupt drug activity, in accordance with the drug prevention policy. The corridor area leading to this lobby must also be monitored for the same reasons; thus promoting the licensing objectives of the prevention of crime & disorder and public safety.

Therefore Sussex Police invite the licensing committee to grant part of this application; to extend the premises and relocate the WCs with additional conditions:

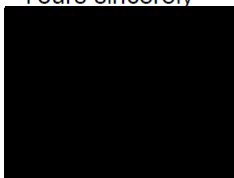
- A toilet attendant or a SIA door supervisor needs to be located in the ‘enclosed mixed gender toilet lobby’ from 20:00 until closing on Thursday Friday and Saturday nights Christmas Eve and New Year’s Eve and on Halloween
- The corridor area leading to this lobby must also be monitored.

Sussex Police object to the removal of the condition pertaining to High Visibility fluorescent vests on door staff.

If the applicant is agreeable to the proposed conditions, Sussex Police can resolve this representation subject to these conditions being attached to the premises licence.

Please contact this office on the number below or via email to ws_licensing_wor@sussex.pnn.police.uk should you wish to discuss this representation.

Yours sincerely



Chief Inspector Ockwell

District Commander

Sussex Police, Neighbourhood Licensing Team
Centenary House, Durrington Lane, Worthing,
West Sussex. BN13 2PQ
Telephone: 01273 404030



Sussex Police
Serving Sussex

www.sussex.police.uk

Neighbourhood Licensing Team

30th January 2017

Bar 42
42 Marine Parade
Worthing
West Sussex

Dear Mr Knowles,

Thank you for your email dated 29th January 2018 relating to your premises Bar 42, and the police licensing visit conducted at approximately 23:10 hours on 26/01/2018. In the interests of clarity I shall reiterate the concerns identified to you, the Designated Premises Supervisor (DPS) on the evening, by PC Phelps of the Prevention Licensing Team and myself Pauline Giddings, Divisional Licensing Officer; before addressing the matters raised in your email.

As we entered the premises a band appeared to be leaving. Mr Darren Bushby (1014543889545093) SIA door supervisor, was on duty at the front door. A number of patrons were sitting drinking on the patio area at the front. The door supervisor was wearing his armband containing I.D. but was not wearing a "*suitably marked reflective jacket in order that he could be readily identified to customers, staff, and police*". This is specified on the premises license, and is part of condition 10. The condition also states that the "*door supervisors shall be fully briefed prior to work, with clear written instructions regarding their specific duties*". The written instructions were not specifically requested on the night, however they were not referred to nor volunteered when you were asked about the direction and supervision of your door supervisor.

On entering the premises PC Phelps and I were struck by the level of noise created by the recorded music playing. We were met by yourself and taken to the rear of the premises where it was slightly quieter. You were explaining that you were in the process of organising the premises as you were intending to commence renovations at the premises; moving the WCs, extending the floor space by moving the back wall and removing the chimney. I informed you that this would require a full variation of the premises license and as you were intending to have the work completed in March an application needed to be submitted. I recommended that you consult Mr. Simon Jones at Worthing Borough Council, if you were unsure about the application.

You were then asked how many personal license holders were employed at the premises and you confirmed that you were the only one. You were then asked about staff training and asked to produce training records for the bar staff. You stated that you did not have any records as staff were trained on the job. PC Phelps reminded you that staff had to be trained prior to making alcohol sales. You refuted this and stated that staff learnt as they went along and as they did not stay long you could not be expected to put them all through BII training. PC Phelps reminded you it is a condition of the license that staff are trained and that having held the license for six and a half years you should be aware of this. Condition 7 of the premises license reads:

- *All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically in regard age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs. Induction training must be completed, and fully documented, prior to the sale of alcohol by the staff member and refresher training*

Sussex Police
Centenary House, Durrington Lane, Worthing, West
Sussex, BN13 2PQ

Telephone: 01273 404030

thereafter at intervals of no less than six months. All restricted sales training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, Licensing Authority and Trading Standards Officers upon request

You were further asked to produce the incident log which you said was in the safe due to the re-organisation but was hardly used as you rarely had an incident. You were asked to produce the refusals register which should be available to bar staff and /or SIA door staff to easily access to record where entry, or alcohol sales, were refused. You admitted you did not have one. You were informed that these too were breaches of the premises license. Condition 8 states:

- The license holder shall at all times maintain and operate a sales refusals book and an incident log. These shall be reviewed by the Designated Premises Supervisor at intervals of no less than four (4) weeks and feedback given to staff as relevant. Both the refusal register and incident log will be kept on the premise to record all refusals and incidents of crime or disorder. These records will be made available to the authorised officers of the Licensing Authority and Police upon request.

You were reminded that to carry on a licensable activity from any premises other than as authorised, is an offence under Section 136 of the licensing Act 2003 which upon conviction carries a maximum penalty of 6 months imprisonment and/or an unlimited fine. You proceeded to ask if Sussex Police could provide the training information for you to deliver to the staff. You were informed that this was not possible and that the responsibility for complying with the premises license lies with you, the DPS and the premises license holder.

You were informed that as a matter of urgency you needed to address these failings. It had taken an appreciable amount of time to identify and clarify these breaches of the premises license, and to impress upon you the seriousness of the matter. You were informed that as the holder of the license you are responsible for knowing what the license says and ensuring you comply with **all** of the conditions. Neither of the attending officers observed Challenge 25 Age verification posters at the premises, and unfortunately there was insufficient time to check the CCTV.

On leaving the premises the SIA door supervisor was asked about a refusals/incident log. He was unable to identify where one would be but suggested that you may know.

I am in receipt of your email 29/1/18 16:48 hours. For future reference the neighbourhood licensing team generic office email address remains unchanged ws_licensingWOR@sussex.pnn.police.uk . PC Phelps CP491 can be contacted via the following email address, however the generic account is monitored each working day and is therefore preferable. Matthew.Phelps@sussex.pnn.police.uk

Regarding your staff training I am pleased that you have taken steps to ensure you are complying with the licence condition. Please be aware that, as you stated staff do not remain in employment at the bar for much longer than 2 weeks, it is imperative that new staff are trained prior to commencing sales of alcohol and that all staff are retrained and that all training is documented and preferably signed by them and by you as the trainer. Could you also please provide this office with a copy of your drug prevention policy (Condition 16 of the premises licence) within **7 days of the date at the top of this letter**. I am happy for this to be via email.

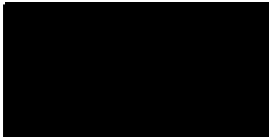
Regarding your concerns about other premises' staff training procedures; clearly I cannot comment to you regarding other licensed premises. However, licensing visits and enforcement action are all part of ongoing work conducted by the Sussex Police, Prevention Licensing Teams. As you are aware these visits include checking compliance with the licence conditions and adherence to the Licensing Act 2003. Where issues are identified legal action will be considered.

I should point out to you as the Designated Premises Supervisor and Premises Licence Holder, you are responsible for the lawful conduct of this business and are reminded that it is a criminal offence under the Licensing Act 2003 to carry on licensable activities from any premises in breach of the conditions of the premises licence. As previously pointed out to you the maximum penalty on conviction is six months imprisonment and/or an unlimited fine. Furthermore a review of this premises licence may be called for if further breaches of the licence are substantiated.

This letter should be treated as a warning. If there are further breaches of the conditions of your premises licence, we shall consider legal action without further notice, and this may place the premises licence at risk. Further observations may be carried out by officers of the council or Sussex Police.

Please ensure the remedial action identified within this letter is completed and detailed confirmation, including documentation where appropriate, is provided to this office within 7 days.

Sincerely



Pauline Giddings

Divisional Licensing Officer
Neighbourhood Licensing Team
West Sussex
101 x 581443
01273 404030

CC Simon Jones Licensing Officer Worthing Borough Council
FortyTwo Worthing <42worthing@gmail.com>

Application for Variation to a Premises Licence - Bar 42, 42 Marine Parade, Worthing

1 message

Nadeem Shad <nadeem.shad@adur-worthing.gov.uk>
 To: Licensing Unit <Licensing.Unit@adur-worthing.gov.uk>
 Cc: Simon Jones <simon.jones@adur-worthing.gov.uk>

1 March 2018 at 13:32

Licensing Act 2003

Application for Variation to a Premises Licence - Bar 42, 42 Marine Parade, Worthing

I refer to the above application and make the following comments on behalf of Public Health and Regulation at Worthing Borough Council concerning the prevention of Public Nuisance.

It is my opinion that the application does not adequately address the objective of the prevention of public nuisance caused by noise and that if the variation is granted as applied for a public nuisance (as defined by the Licensing Act 2003, ("the Act")) would be caused to residents within the vicinity of Bar 42, 42 Marine Parade, Worthing.

The application proposes to extend the permitted hours of recorded music until 01:00 hours on Thursday, Friday and Saturday nights (Part F). Alongside this the application seeks to rewrite the existing condition relating to noise limits. Both have the potential to affect adjoining neighbours.

Whilst I acknowledge the premises are situated in an area which can at times be very busy, it is nonetheless located in an area of both commercial and residential properties. There are residential properties immediately above the premises and next door (to the east) at ground, first and second floor level. Noise therefore has the potential to affect ordinary residential use. The background noise at this location in the late evening will be low despite its location, meaning any noise produced by recorded music and customers is likely to be audible within neighbouring properties and therefore result in a public nuisance.

There is also a long history of complaints of noise and anti-social behaviour associated with the premises, dating back to 2011. Complaints have been related to the volume of recorded and live music played and the level of noise from customers on the patio and street outside.

Extending the permitted time for recorded music from 23:00 to 01:00 hours on Thursday, Friday and Saturday may give rise to a public nuisance. Under the Live Music Act 2012 recorded (and live) music is permitted until 23:00. However what may be acceptable at 23:00 hours will not necessarily be so at 01:00 hours and I have genuine concerns that noise from recorded music into the early hours of the morning, whilst people are attempting to sleep, will cause unreasonable disturbance and result in a public nuisance.

The applicant wishes to remove conditions 1 and 2 on the current licence. These relate to the use of a noise limiter set to 90dB(A). The applicant proposes this is rewritten to read "*Noise limiting through in house PA system*". This is very vague and does not specify what level is to be set, nor does it contain a requirement to agree this level with anyone. As such I do not believe it will provide sufficient protection to residents. In addition the existing level was set as an absolute maximum so residents were protected.

The operating schedule states "*patio checks regarding noise made from recorded music will be made by duty manager*". No further information is given. In my view this is completely inadequate. What do their checks involve? What level do they deem to be acceptable? One manager's opinion on the acceptable level may differ from another.

Recent history has shown that the operator seems somewhat confused as to what constitutes background music. Currently after the permitted licenced hours for music (23:00) all music must be at a *background* level. In reality this means a level where an individual does not need to raise their voice over the music to be heard. On a number of occasions when the premises have been visited (by myself, the Licensing Officer and most recently the Police) the music has not been determined to be at a 'background level' and the licence holder advised of this at the time. However the licence holder seemed unable to understand or agree that his music was in excess of what would be considered reasonable 'background' music. This raises serious concerns about their ability to adequately carry out the suggested checks on the patio or operate at a reasonable level inside.

Further, there have been a number of complaints relating to noise and drinking on the patio late into the evening, many of which the licence holder has denied. I am concerned that by providing music until 01:00 this is likely to have the effect of encouraging customers to remain on the patio late into the evening thereby causing excessive noise disturbance to adjacent residents.

As such I believe the operating schedule is insufficient to prevent a public nuisance. It is my opinion that if the application is granted as applied for, neighbouring residents will be unreasonably disturbed by noise produced by

music and customers and result in a public nuisance. As a result I am unable to support the application in its current form and make this representation against the application on the grounds of the prevention of public nuisance.

Nadeem Shad

Team Leader (Environmental Protection), Adur & Worthing Councils

Phone: 01273 263303

Email: nadeem.shad@adur-worthing.gov.uk

Website: <http://www.adur-worthing.gov.uk/environmental-health/>

Address: Public Health & Regulation, Portland House, 44 Richmond Road, Worthing, West Sussex, BN11 1HS



Bar 42

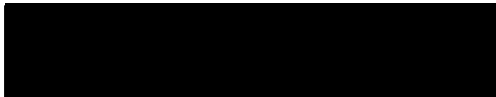
1 message

15 February 2018 at 15:14

To: "licensing.unit@adur-worthing.gov.uk" <licensing.unit@adur-worthing.gov.uk>

Sent from my iPad

Begin forwarded message:



To the Licensing unit,

Extension to the hours of music Bar 42

I strongly object to Bar 42s application for an extension to its music hours.

Reasons.

Years of Noise Harassment inside and outside of my Home and my suffering Neighbours . Bar 42s soundproofing is practically non existent.

Mr Knowles, and the Council have shown no Empathy - to the residents of 41 Marine Parade - what so ever - otherwise action would have been taken.

Diarys in the past have achieved nothing.

Mr Knowles does not live on the premises . I don't understand why the council have allowed the Noise Harassment from Bar 42 to continue.

I feel so let down by the council. I stopped complaining a long time ago .

The Noise Penetrates - Invades - my home, consumes my personal space . The Thumping Noise Vibrations become the only sound I can hear inside my home .

INSIDE MY HEAD.

This has caused me

ANXIETY - SLEEP DEPRIVATION - STRESS - DEPRESSION.

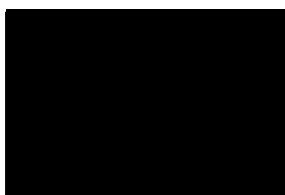
I work full time and am a shift worker . I work on average 13 to 17 hours a day including drive time .

I am Exhausted by the time I get home . I need SLEEP not STRESS .

I am greeted with on-going anti social behaviour outside my home. Fights broken glass - Our lovely front garden is also used as an ashtray .

I feel driven out of my home . I should not be forced to move .

yours sincerely



Tuesday, 13 February 2018

To the Licensing Unit

Re: Application to extend the hours of music at Bar 42.

We object to the application by Bar 42 to extend its hours of music to prevent further disorder and public nuisance. The Council's licencing policy states that in addition to its four main objectives, it also aims to protect local residents from anti-social behaviour. So far this is not the case.

In 2015, a similar application was made and the licencing sub-committee refused to give an extension.

Since 2015 nothing has changed. The applicant has failed to change, has failed to identify the issues which continue to adversely affect us and as such his licence needs to be reviewed as opposed to extended. We feel greatly let down by the Council in this respect.

Noise continues to permeate throughout the building which was not designed to contain live or recorded music. Attempts by the applicant to soundproof have been unsuccessful. To limit the decibels does not address the problem of base noise travelling up through the communal wall. This noise prevents us from sleeping. We have to wait until the music has stopped before we can sleep. Our only choice is to listen to the thumping beat resonating from the music or put on the radio/TV to drown it out. If the music is allowed to continue to 1.00hrs rather than the present 23.00hrs, we will be forced to stay awake until 1.00 hrs every Thursday, Friday and Saturday. This is not acceptable as we usually retire to bed early in order to rise early for work the next day. It is not unusual for one of us to need to rise at 5.30hrs to catch an early train to London.

Currently the owners are renovating the entire fabric of the building. Despite statements to the contrary, it is the owners of 42 Marine Parade who are carrying out these renovations and not Mark Knowles of Bar 42. This complete renovation of the building has been long overdue but is welcomed as it will enhance and protect both the conservation area we live in, including our property, which have both suffered in recent years due to the neglect of the property at No. 42. As a part of this project, the toilets are being moved downstairs and a wall on the terrace is being built to segregate the tenants of number 42 from the customers of Bar 42. The applicant is not carrying out these changes after having identified issues and rectifying them. It is the owners who have finally committed the funding necessary to save an old building. It remains to be seen/heard at the anticipated completion date of June 2018 whether the refurbishments make a difference to the disturbance caused by music travelling through the communal walls. There is no mention of soundproofing in the submitted plans for refurbishment, therefore we doubt there will be any reduction in noise pollution.

Our second issue concerns the rowdy behaviour of customers on the terrace. Despite security staff, customers are rarely quiet. We have never seen any social policing by security staff. Drunken people screaming and shouting is a regular occurrence. Their behaviour is anti-social and if the extension is granted we will seek an ASBO through the local law courts. Customers often spill out onto the pavement into the public domain and fights are not uncommon. Customers with drinks regularly remain on the terrace after midnight in breach of the licence which states only smokers can be there quietly.

Please visit this You Tube channel to watch an example of this behaviour.

These videos refer to 25th November 2017 – filmed through closed double glazed windows.



These videos refer to January 19th



[REDACTED]

These videos clearly show very young people drinking cans of lager on the terrace and on the adjacent pavement. After these videos end, the screaming and shouting on the terrace and pavement continued. We do not believe that Bar 42 sold alcohol to these teenagers but it can be seen from the videos that nothing was done to remove or quieten them. This group of young people, some of whom appeared to be under 18, then moved onto the promenade opposite and a fight broke out. One of the young people was in a very distressed state. It was impossible to know what had happened but the violence escalated so much we called the police. We were worried for them. Three police cars turned up, most of the teenagers ran away hiding beer cans up their sleeves. The problem, after some time, seemed to be resolved but the moment the police left, they quickly became rowdy again without any control from the staff at Bar 42.

All of these videos were forwarded to the council yet nothing changed. No contact was made with us regarding these complaints. We stress that these videos are not isolated incidences.

The bar does have signs asking their customers to respect the neighbours but they are not enforced. This is their sign, it sums up their attitude towards their neighbours.



In the 2003 Licencing Act, Section 4.2 it says:

The Council places huge importance on the prevention of crime and disorder. A high standard of control is, therefore, expected to be exercised over all licensed premises.

What are your high standards? The prevention of disorder, in our opinion, is not being enforced.

In particular Sections 4.17,4.18 and 4.22 of the Licencing Act apply to us and state:

4.17 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of disturbances impacting upon people living, working or sleeping in the vicinity of the premises or wider afield.

4.18 Noise disturbance can arise from entertainment or activities held within licensed premises and also from people or motor vehicles outside licensed premises. The Council will expect Operating Schedules to

address these issues. Advice and guidance can be obtained from Licensing Officers or the Council's Environmental Protection Team. If representations are received the Council may utilise appropriate conditions to control noise disturbance and the use of such conditions will depend upon the activities/entertainment/hours of operation proposed; the nature of the locality; and existing background noise levels and ambient noise levels. Noise control conditions may include the satisfactory sound insulation of licensed premises; compliance with maximum noise levels; and limiting hours of operation.

4.22 Patrons may no longer smoke inside licensed premises and consequently may go outside to smoke. Applicants and existing licence holders are encouraged to assess whether the noise from such patrons could potentially disturb nearby residents and whether there is potential for smoke to drift to nearby residential properties.

Nothing has been done to improve our lives despite our numerous complaints. It seems Bar 42 can do what they like with impunity.

The Licencing Act 2003 goes onto say:

10.17 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way, which is incompatible with a right under the European Convention on Human Rights, except in certain circumstances. In carrying out its licensing functions the Council will have particular regard to:

- *Article 8 that everyone has the right to respect for his home and private and family life.*

There is little respect for us. If it is noisy, we have to close our windows. If there is music, we have to wait for it to finish before we can go to bed. When cigarette butts are thrown over the wall, we have to clean them up. When there is a fight, we do not feel safe to leave our properties.

Living in the centre of town we understand that the needs of everyone must be taken into consideration. Businesses need to do business. Residents need to sleep and be able to sit in their living rooms without being subjected to screaming and shouting just outside their windows. Bar 42 is a badly managed licensed premise, which fails to adhere to many of the objectives of the Licencing Act.

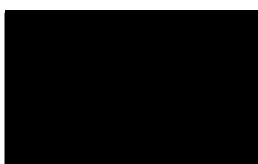
Extending the time during which music can be played will only exacerbate an already bad situation. More people will be attracted to Bar 42 and crowd management will only get worse. The application states that the duty manager will check the outside terrace to see if there is any adverse effect from the music played. It is not the music outside that is the problem, it is the behaviour of the bar's customers on the terrace that is the problem. We would not welcome the duty manager visiting our bedroom to monitor the disturbance effect of the music late at night. In the past, the environmental department have monitored sound levels.

We do not support the removal of high-visibility armbands for security staff at Bar 42, as this is the only way to know if security is present.

We do not object to the structural changes; however, we do not understand the potential impact on noise limitation produced by connecting a noise limiting device through an in-house PA system. The current system does not work and we doubt that the new system will work any better.

We wish to register to speak at a Licencing Sub Committee meeting to voice our concerns in person. We are seriously considering taking legal action against the council who have failed us through their inaction.

Yours sincerely,



Re: Bar 42, 42 Marine Parade, Worthing

1 message

To: [REDACTED]
licensing.unit@adur-worthing.gov.uk

18 February 2018 at 23:45

Dear Sirs,

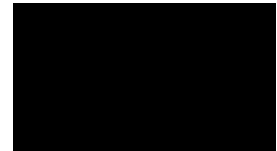
I write with reference to the application to vary the license at Bar 42 and to register my very strong objection to the proposed variations. These include the extension of the hours of music from 11 p.m to 1 a.m, the removal both of the requirement for the security staff to wear high-viz jackets and the amendment of the noise pollution controls.

Permission to extend the time that music can be played will attract more customers to Bar 42 and my objection is on the following grounds:

- the risk of further disorder and public nuisance on the terrace and public pavement outside Bar 42 will increase, particularly as customers leave the premises
- the removal of high-viz jackets will make it impossible to know if anyone is present to deal with anti-social behaviour.
- the nature of the amendment to the conditions relating to the noise limiting device is unspecified (are these controls to be done away with altogether?)

These proposals are considered inconsiderate insofar as they will almost certainly detract considerably from the quality of life of nearby residents; thudding heavy-metal beat "music" at 1 a.m does not make for a good night's sleep and the prospect of an increased number of inebriates hurling foul-mouthed abuse at one another as they leave is hardly calculated to improve matters.

Yours sincerely,
[REDACTED]



To the Licensing Unit

Re: Application to extend the hours of music, remove high viz jackets for security staff and to change the noise limiting procedure at Bar 42.

I write to object to the application to vary the licence at Bar 42, 42 Marine Parade Worthing.

By granting permission to extend the time music can be played will result in more customers at Bar 42 and I object on the grounds

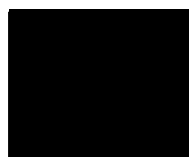
- to prevent further disorder and public nuisance on the terrace and public pavement outside Bar 42
- to prevent further anti-social behaviour by customers at Bar 42 and leaving Bar 42.
- to prevent an increase in noise pollution from customers from Bar 42.

The removal of high-viz jackets will make it impossible to know if anyone is present to deal with anti-social behaviour.

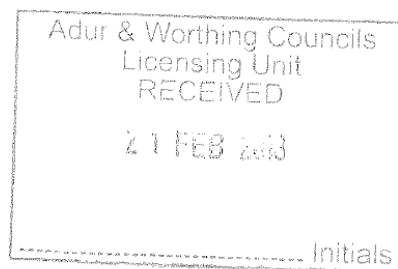
The removal of the conditions around the noise limiting device, will result in an unregulated system to monitor noise pollution.

Yours sincerely

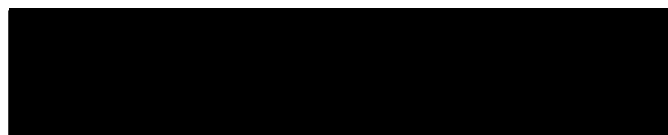
Name:



Address:



Signature:



Date:

19th February 2018.

To the Licensing Unit

Re: Application to extend the hours of music, remove high viz jackets for security staff and to change the noise limiting procedure at Bar 42.

I write to object to the application to vary the licence at Bar 42, 42 Marine Parade Worthing.

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- to prevent an increase in noise pollution from customers from Bar 42.

The removal of high-viz jackets will make it impossible to know if anyone is present to deal with anti-social behaviour.

The removal of the conditions around the noise limiting device, will result in an unregulated system to monitor noise pollution.

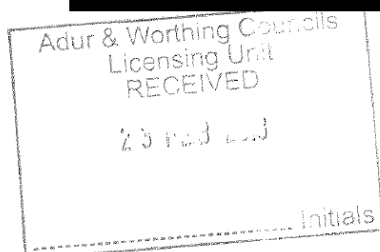
Yours sincerely

Name:

Address:

Signature

Date:



To the Licensing Unit

Re: Application to extend the hours of music, remove high viz jackets for security staff and to change the noise limiting procedure at Bar 42.

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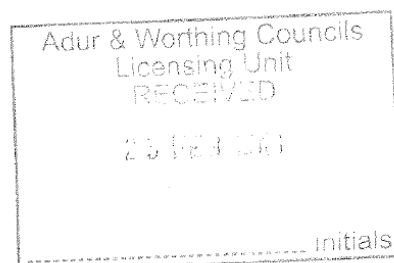
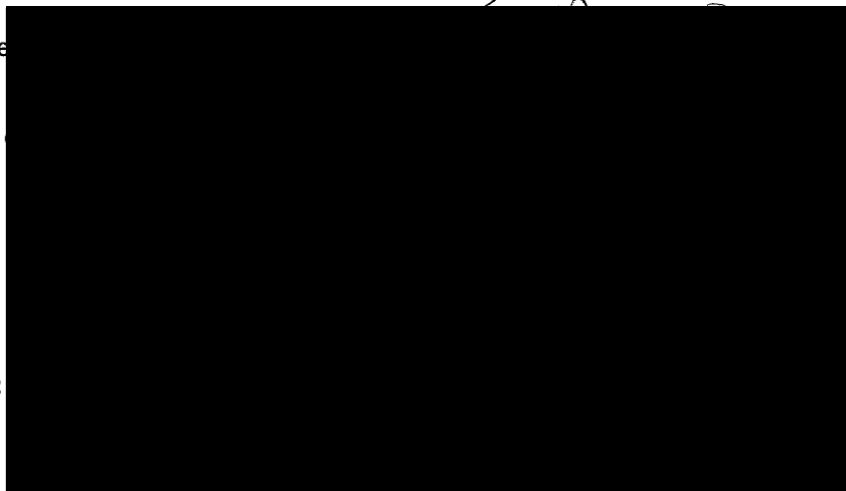
Yours sincerely

Name:

Address:

Signature:

Date:



Bar 42s application for an extension to music hours.

1 message

15 February 2018 at 15:09

[REDACTED]
to: Licensing.Unit@adur-worthing.gov.uk

To the Licensing Unit,

Extension to the hours of music at Bar 42

We object to Bar 42's application for an extension to its music hours, for the following reasons.

Since their last application in 2015, nothing significant has changed.

We continue to be disrupted with antisocial behaviour and unacceptable noise from Bar 42's terrace, during and after licensing hours.

The loud music continues to resonate through the walls into our property, mainly disturbing the flats to the rear of number 41. This is a constant base thumping sound, which vibrates through to our property.

During licensing hours, even when there is a "security person" on duty, the shouting/screaming/singing is unmonitored and not stopped. If the security staff are permitted to remove their hi-vis armbands, how can it be verified that security are present.

After licensing hours and after the licensee has left, people hang around on the terrace and continue to disturb us until the early hours.

We regularly have to pick up discarded cigarette ends from our pathway and garden, which have been thrown over the wall. We regularly have to pick up bottles/glasses, which are sometimes broken, from our pathway/the public pavement / our garden wall. On one occasion, we had to hose vomit from the end of our pathway.

We have suffered verbal abuse and threats for asking people to keep quiet. As mentioned in the hearing in 2015, I was threatened with rape and my husband with murder, simply because we asked people to keep the noise down. This is completely unacceptable.

These threats have not been taken seriously, either by the council or the police.

We had a council "noise recorder" in our flat in the summer of 2017. It showed that the noise from Bar 42's terrace was at an unacceptable level. Six months later, we are still awaiting feedback from the council. We have since learned, that Flat 6 went through the same procedure to no avail.

Bar 42 continues to do nothing to appease this situation. They in fact have no empathy. A few months after the last hearing, a post on Facebook was brought to our attention. Please read the comments from Ross Dumbrell:



A few more examples of their lack of consideration follow:
Residents of 41 were enjoying a Sunday afternoon in the garden. Upon asking Mr Knowles to lower the music volume, as the bar doors were open, we were told "if you don't like it, go inside".

Another time Mr Knowles response was "I don't care, I don't live here".

When emailing Mrs Knowles (at her request), after midnight , to ask her to clear the terrace, as there were several people being extremely noisy out of hours, her response was she couldn't do anything as "I am generally asleep at this time of night". That is almost laughable.

We have since learned that Mrs Knowles is not named on the license and therefore has no right to any involvement in this matter.

It is very clear that Mr Knowles is unable to run a business well or adhere to the rules stipulated in the Licensing Act 2003. These regulations are constantly being contravened. It is not true that the applicant is paying for the renovations. The owners of the building are paying for the renovation works for the whole building including the rehousing of the Bars toilets and everything else on the plans he has submitted to the council. Considering the conditions of the license are breached every time the music exceeds 90 decibels, it is surprising the applicant has not shown any planned improvements to the current inadequate sound proofing. However, it is also a fact that no amount of soundproofing will protect residents, this building is not designed to be a music venue.

We fail to understand why our complaints to the council have not resulted in any perceivable changes and would like an explanation why. We would also like to know why we have not received an official notification from the council, regarding this application.

Apart from the obvious stress caused to us all from Bar 42, we are also having to monitor the noise, write diaries, email the council, get out of bed at all hours, with no positive outcome and often with no response. For all the evidence we have provided at great inconvenience and stress, nothing changes.

This is not only time consuming and distressing, but it is also detrimental to the health of the residents at number 41.

The fact that Bar 42 is even being considered for an extension to their music hours is unbelievable, given the catalogue of complaints and problems over the last few years.

We do not only object to this application, but we state that Bar 42 should have their license revoked entirely.

This dispute should have been resolved a long time ago. We feel let down by the council and have suffered enough.

We, as a group at number 41 Marine Parade, will now be seeking legal representation to stop this from going any further.

Everybody has the right to enjoy peace and quiet and enjoyment within their own home, without excessive disturbance from others.

We wish to attend and speak at the licensing sub committee meeting.

Yours faithfully,

A solid black rectangular box used to redact the signature of the sender.

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Appendix G Mediated Agreement

From: <Pauline.Giddings@sussex.pnn.police.uk>
Date: 19 March 2018 at 15:35
Subject: Representation Bar 42
To: licensing.unit@adur-worthing.gov.uk
Cc: WS_Licensing_WOR@sussex.pnn.police.uk

Regarding the representation raised by Sussex Police in regard the variation application for Bar 42 I can confirm that the applicant has agreed to the conditions as set out and therefore Sussex Police are able to resolve this representation subject to the conditions being attached to the premises licence.

Pauline Giddings

Divisional Licensing Officer Neighbourhood Licensing Team
West Sussex

From: FortyTwo Worthing [mailto:42worthing@gmail.com]
Sent: 27 February 2018 14:02
To: WS_Licensing_WOR <WS_Licensing_WOR@sussex.pnn.police.uk>
Subject: Re: Representation Bar 42

Pauline

Following on from our conversation we are happy to continue to ask the security company to use high viz clothing.

Regarding the toilet attendant, as agreed, we'll employ a member of staff in the toilet lobby area from 21.00pm until close on Friday & Saturday (plus Xmas Eve and New Year's Eve). We will also employ an attendant on other days as per our risk assessment of that particular night. The risk assessment will consider pre-event ticket sales and social media reaction to an event. It's something I've been doing for a few years now regarding bar staff and door staff so this is just a continuation of that.

The corridor will have doors 6 feet apart with toughened glass windows so can be monitored from both toilet attendant and sound tech in the main room. The doors are there for sound proofing but we'll be testing their impact once we reopen and it might be possible to remove a door to make monitoring easier if noise to the outside of the building is not compromised.

I hope this clears things up

Thanks

Mark Knowles
Bar 42

Bar 42 Licence Variation

1 message

13 March 2018 at 16:27

Dear Resident,

Re: Bar 42, 42 Marine Parade Worthing. Licence Variation.

I refer to your correspondence to Worthing Borough Council Licensing Unit regarding our application for a variation on our licence. It has been suggested by the Licensing Team at the council that we contact you directly to explain the reasons for this application.

I can understand your reservations regarding this change, but would like to answer your concerns.

Firstly, we have been forced into this because the landlord wanted to carry out works that were specified in our lease (see attached). Our preference was to leave it as it was, but the landlord had the right to do it. The builders responsible for the redesign and building work in the bar are the same builders renovating the whole building. We had several months of discussion regarding the layout and cost. It was agreed there would be no cost to ourselves regarding the structural changes which included removing a chimney to reduce sound transference through the building and completing the sound proofing as agreed on the contract which was created by us and agreed to by landlord and building contractor (attached) On 8th January the work commenced and was completed on 8th March with the exception of the roof on the new extension.

There is new Government legislation regarding new build and renovated residential properties sited adjacent to or near to music venues, making the developer responsible for ensuring that there is adequate sound proofing on all new structures. The following link explains the new rules.....<https://basca.org.uk/2018/01/22/music-legends-come-westminster-fight-save-venues/>

There is no reason to believe that there will be an increase in noise or public nuisance as we are already open until 1.00am. People are not allowed on the patio area with drinks after 12.00 midnight, so the only people outside will be smoking. Our main focus for entertainment is live music which has a curfew of 11.00pm, but is planned to finish at 10.30pm. We do not anticipate an increase in customer footfall after 11.00pm as the main focus of the bar, the live music has finished.

There will be no increase in our capacity because although we have extra space in the premises, most of it is taken up by the stage. We have gained nine feet of space overall, but six feet has been taken up by the new stage area. In the front of the bar we have less space due to a new seating area. So it's a more functional space for the same amount of people.

We have discussed the requirement for high-viz jackets with the police and have agreed to comply with this. Our reservations regarding this are that we have to employ an agency to supply door staff, so we are not directly employing them. We frequently get door staff who have not worked at 42 before so we are relying on a robust process and communication within an agency we do not have an input into. This actually happened on Saturday 10th March, and she was asked to call her manager and ask for a high viz jacket to be brought down. She was wearing it by 10.00pm. We have agreed with the authorities that there is some leeway should this happen again.

We are already using a noise limiting device which is operated through our PA system, which cannot be tampered with by unauthorised personnel. We are using up to date technology to restrict noise, but we need to amend the licence to reflect this. The entry in our licence regarding noise limiting has been in the licence since the 1990s, so is out of date. So we are simply wanting to bring the licence requirements up to date. Should this be left in, the council would be within their rights to insist on the installation of obsolete equipment which is not as effective as what we have in place right now.

Over the years we have had discussions the authorities as to what constitutes ambient music levels which is the current requirement in our licence. This is subjective and difficult to enforce for the authorities and argue by us. Therefore because our music cannot be heard outside, the authorities suggested that we extend our hours of recorded music to 1.00am, so to end further disagreement regarding the interpretation of the licence.

All the changes being made are an attempt to update old entries to be relevant to today's licencing requirements whilst we were forced to update the plans anyway due to the renovations. It made sense to do it all at once as it's a costly process (£800 in all). The licence carries over to the next person who owns the bar too so these entries will be a safeguard for both new owner and authorities for the future too.

If you have any further questions, please contact me by e-mail or letter, pop into the bar any day after 2.00pm or address our legal representative at the hearing on April 5th.

Those residents who have not supplied an email address will receive a letter in the next day or so.

Regards

A large black rectangular redaction box covering the signature and name of the sender.