

V

Bath & North East Somerset Council

MEETING:	Licensing Sub-Committee	AGENDA ITEM NUMBER
MEETING DATE:	Tuesday 3 May 2016	
TITLE:	Application to Vary the Premises Licence for The Dark Horse, 7a Kingsmead Square, Bath, BA1 2AB	
WARD:	Kingsmead	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Annex A Application to Vary the Premises Licence		
Annex B Current Premises Licence		
Annex C Plan of premises		
Annex D Representation received from the Police		
Annex E Correspondence between Police and Applicant		

1 THE ISSUE

1.1 An application has been received for the variation of an existing premises licence under Section 34 of the Licensing Act 2003 in respect of The Dark Horse, 7a Kingsmead Square, Bath, BA1 2AB.

2 RECOMMENDATION

2.1 That the Licensing Sub-Committee determines the application.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

3.1 The costs of processing licences are covered by the fees charged. The fee for this application is £190.00.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

4.1 An Equality Impact Assessment (EqIA) has been completed. No adverse or other significant issues were found.

4.2 Consideration must be given to the Human Rights Act 1998 and the "convention rights".

4.3 The Licensing Sub-Committee has been delegated authority to determine the application on behalf of the Licensing Authority in accordance with the Licensing Act 2003.

Opening daily at 09:00 hours instead of 10:00 hours;

Closing Thursdays at 01:30 hours the following morning; and

Closing on Fridays and Saturdays at 02:30 hours the following morning.

- Increase the terminal hour for the provision of late night refreshment (currently midnight) on Thursdays to 01:00 hours the following morning and on Fridays and Saturdays to 02:00 hours the following morning;
- Remove the following condition from Annex 2 of the premises licence:

“Hot food will be available at all times the premises are open to the public”.

5.4 A plan of the premises is attached at Annex C.

5.5 The Licensing Act 2003 (Section 4) states that it is the duty of all Licensing Authorities to carry out their functions under the Act with a view to promoting the licensing objectives. The licensing objectives are:

- a) The Prevention of Crime and Disorder.
- b) Public Safety.
- c) The Prevention of Public Nuisance, and
- d) The Protection of Children from Harm.

Each objective is of equal importance; there are no other licensing objectives so these four are of paramount consideration at all times. When considering applications, representations or notifications, the Licensing Authority will have regard to these licensing objectives.

5.6 The Licensing Authority may vary and grant the application with or without additional conditions if they consider it appropriate and proportionate to do so.

5.7 The Licensing Authority can refuse the variation, or part of the variation, for the promotion of the licensing objectives.

5.8 The Licensing Authority may not however do anything to reduce the effect of the rights granted by the existing premises licence.

5.9 Section 4(3) Licensing Act 2003 states that the Licensing Authority should also have regard to the Council's Licensing Policy, the Statutory Guidance issued under Section 182 of the Licensing Act 2003, and the Licensing Act itself, and in particular to:-

- a) Paragraphs 3-6, 8-10, 13-14, 15, 17-23, 27, 33-36, 38-41 and 43 of the policy as revised in 2015.
 - b) Chapters 8, 9 and 10 of the Statutory Guidance (as revised March 2015)
 - c) Sections 4, 9, 10, 13, 34, 35, 36, 182 and 183 of the Act.
- 5.10 The Licensing Authority recognises that Licensing and Planning are separate regimes. Where an application is granted by the Licensing Authority which would require planning permission this would not relieve the applicant of the need to obtain that permission. It will still be necessary for the applicant to ensure that he/she has **ALL** the necessary permissions in place to enable them to run the business within the law.
- 5.11 If the application is refused the applicant may appeal within 21 days of the notification to the Magistrates Court.
- If the application is granted the person making the relevant representation may appeal within 21 days of the notification to the Magistrates Court.
- On appeal the court may either dismiss the appeal; substitute the decision appealed against for any other decision which could have been made by the Licensing Authority, or remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court. The court may make such order for costs as it thinks fit.
- 5.12 In accordance with the requirements of the Act the applicants served copies of the application upon the Police, the Fire Authority, Environmental Health, Development Control, Trading Standards, the Health Authority and the Local Safeguarding Children Board.
- 5.13 The applicant is required to place a notice at the premises for a period of 28 days starting the day after the application is made and place an advert in a local newspaper within 10 working days of submitting the application to the licensing authority.
- 5.14 A representation has been received from the Police (Annex D) expressing concern that the applicant's proposals, in their current form, are likely to undermine the **Prevention of Crime and Disorder** licensing objective. Conditions have been proposed within the representation to further this objective.
- 5.15 Correspondence between the applicant and the Police concerning the proposed conditions have been included at Annex E.
- 5.16 The premises is situated within Bath's Cumulative Impact Area.
- 5.17 This report has not been sent to the Trades Union because they would have no involvement in this application.

6 RATIONALE

- 6.1 As relevant representations have been received the Licensing Sub-Committee must determine the application in accordance with the Licensing Act 2003.

7 OTHER OPTIONS CONSIDERED

- 7.1 None

8 CONSULTATION

- 8.1 In accordance with the Licensing Act 2003 (Premises Licence and Club Premises Certificate) Regulations 2005, the applicant has given notice of the application to all the relevant Responsible Authorities and has advertised the application in the manner prescribed, both at the premises and within a local publication.

- 8.2 Issues relating to Safeguarding have been considered in respect of this application.

9 RISK MANAGEMENT

- 9.1 A risk assessment related to the issue and the recommendations has been undertaken in compliance with the Council's decision making risk management guidance.

10 ADVICE SOUGHT

- 10.1 The Council's Monitoring Officer (Head of Legal & Democratic Services and Council Solicitor), section 151 Officer (Divisional Director-Business Support) and the Group Manager (Public Protection & Health Improvement) have had the opportunity to input to this report and have cleared it for publication.

Background papers	Licensing Act 2003; Guidance issued under s.182 of the Licensing Act 2003; Licensing Act 2003 (Premises and Club Premises Certificates) Regulations 2005; and B&NES Statement of Licensing Policy.
Contact person	Terrill Wolyn, Senior Public Protection Officer (01225 396939)

Application to vary a premises licence under the Licensing Act 2003**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

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

I/We **THAT'S WHAT SHE SAID LTD**

(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 15/02837/LAPRE

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description THE DARK HORSE, 7A KINGSMEAD SQUARE			
Post town	BATH	Postcode	BA1 2AB
Telephone number at premises (if any)	01225 282477		
Non-domestic rateable value of premises	£18,100		

Part 2 – Applicant details

Daytime contact telephone number	01225 282477		
E-mail address (optional)			
Current postal address if different from premises address			
Post town		Postcode	

Part 3 - Variation

Please tick as appropriate

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

YES

No

If not, from what date do you want the variation to take effect?

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please describe briefly the nature of the proposed variation (Please see guidance note 2)
THE HOURS OF SUPPLY OF INTOXICATING LIQUOR TO BE EXTENDED FROM 2400 TO LATER TIMES AS SHOWN ON THE MORNINGS OF FRIDAY, SATURDAY, SUNDAY.

THE NATURE OF THE USE OF THESE PREMISES BUSINESS HAS CHANGED FROM PURE RESTAURANT USE TO COCKTAIL BAR WITH REFRESHMENTS.

PLANNING CONSENT HAS BEEN GRANTED IN RESPECT OF THE USE OF THE PREMISES.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

Part 4 Operating Schedule

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

Provision of regulated entertainment**Please tick all that apply**

- | | |
|--|--------------------------|
| 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 type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input type="checkbox"/> |
| g) performances 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) X

Supply of alcohol (if ticking yes, fill in box J) X

In all cases complete boxes K, L and M

ANNEX A

A

Plays Standard days and timings (please read guidance note 7)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon				<u>Please give further details here</u> (please read guidance note 4)	
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 7)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4)		
Mon					
Tue			State any seasonal variations for the exhibition of films (please read guidance note 5)		
Wed					
Thur			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 6)		
Fri					
Sat					
Sun					

ANNEX A

C

Indoor sporting events Standard days and timings (please read guidance note 7)			<u>Please give further details</u> (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 6)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Both	<input type="checkbox"/>				
Day	Start	Finish	Please give further details here (please read guidance note 4)		
Mon					
Tue					
Wed			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 5)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sat					
Sun					

ANNEX A

E

Live music Standard days and timings (please read guidance note 7)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4)		
Mon					
Tue					
Wed					
			State any seasonal variations for the performance of live music (please read guidance note 5)		
Thur					
			Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 6)		
Fri					
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4)		
Mon					
Tue			State any seasonal variations for the playing of recorded music (please read guidance note 5)		
Wed					
Thur			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 6)		
Fri					
Sat					
Sun					

ANNEX A

G

Performances of dance Standard days and timings (please read guidance note 7)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)		
Tue					
Wed			State any seasonal variations for the performance of dance (please read guidance note 5)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sat					
Sun					

H

<p>Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)</p>			<p>Please give a description of the type of entertainment you will be providing</p>		
Day	Start	Finish	<p><u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)</p>	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<p><u>Please give further details here</u> (please read guidance note 4)</p>		
Wed					
Thur			<p><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 5)</p>		
Fri					
Sat			<p><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 6)</p>		
Sun					

ANNEX A

I

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	X
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon	2300	2400	<u>Please give further details here</u> (please read guidance note 4)		
Tue	2300	2400			
Wed	2300	2400	<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 5) NEW YEARS EVE TO PROVIDE LATE NIGHT REFRESHMENTS UNTIL 5AM ON NEWYEARS DAY		
Thur	2300	2400			
Fri	2400	0100	<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 6)		
	2300	2400			
Sat	2400	0200			
	2300	2400			
Sun	2400	0200			

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption – <u>please tick</u> (please read guidance note 8)	On the premises	
Day	Start	Finish		Off the premises	<input type="checkbox"/>
Mon	1000	2400	State any seasonal variations for the supply of alcohol (please read guidance note 5) HOURS OF SUPPLY EXTENDED NEW YEARS EVE UNTIL COMMENCEMENT OF HOURS ON NEW YEARS DAY	Both	X
Tue	1000	2400			
Wed	1000	2400			
Thur	1000	2400	Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 6) SEE ABOVE RE NEW YEAR EVE		
Fri	2400	0100			
	1000	2400			
Sat	2400	0200			
	1000	2400			
Sun	2400	0200			
	1000	2300			

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9).
NIL

ANNEX A

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			State any seasonal variations (please read guidance note 5)
Day	Start	Finish	
Mon	0900	2400	<p>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 6)</p>
Tue	0900	2400	
	2400	0030	
Wed	2400	0030	
	0900	2400	
Thur	2400	0030	
	0900	2400	
Fri	2400	0130	
	0900	2400	
Sat	2400	0230	
	0900	2400	
Sun	2400	0230	
	0900	2400	

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.
HOT FOOD WILL BE AVAILABLE AT ALL TIMES THE PREMISES ARE OPEN TO THE PUBLIC

ANNEX A

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 and e) (please read guidance note 10)

TO ASSIST MANAGEMENT OF THE PREMISES:

1 WHERE A RISK ASSESSMENT BY THE DPS AND/OR AT THE WRITTEN REQUEST OF POLICE OR LICENSING AUTHORITY, SIA REGISTERED DOOR STAFF WILL BE ON DUTY TO SUPERVISE ALL PATRONS ENTERING AND LEAVING AND TO ENSURE THE GOOD ORDER OF THE PREMISES. ONLY TWO DRAUGHT BEERS/CIDER TO BE AVAILABLE.

b) The prevention of crime and disorder

A DIGITAL CCTV SYSTEM WILL BE FITTED AND MAINTAINED ON THE PREMISES AND THE RECORDS WILL BE MADE AVAILABLE TO THE POLICE AND LICENSING AUTHORITY ON REQUEST.

NO CANS OF LAGER/BEER TO BE AVAILABLE.

c) Public safety

A COPY OF THE FIRE PREVENTION ASSESSMENT TO BE AVAILABLE TO ANY PERSON IN AUTHORITY.

d) The prevention of public nuisance

ALL OUTSIDE AREAS WILL BE CLEARED OF PATRONS BY 2300 ON EACH DAY.

Please tick as appropriate

- 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 not enclosed the premises licence or relevant part of premises licence.

X THE LICENCE PART A AND B WILL BE DELIVERED TO THE LICENSING AUTHORITY.

e) The protection of children from harm

A CHALLENGE 21 SCHEME SHALL BE OPERATED AT ALL TIMES WHEN THE PREMISES ARE SELLING ALCOHOL. PROOF OF AGE WILL BE REQUIRED FROM ANY PERSON WHO APPEARS TO BE UNDER THE AGE OF 21

Checklist:

Please tick to indicate agreement

- | | |
|---|--------------------------|
| • I have made or enclosed payment of the fee; or | X |
| I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy. | X |
| • I have sent copies of this application and the plan to responsible authorities and others where applicable. | <input type="checkbox"/> |
| • I understand that I must now advertise my application. | <input type="checkbox"/> |
| • I have enclosed the premises licence or relevant part of it or explanation. | <input type="checkbox"/> |
| • I understand that if I do not comply with the above requirements my application will be rejected. | <input type="checkbox"/> |

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING 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.

ANNEX A

Part 5 – Signatures (please read guidance note 11)

Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent (please read guidance note 12). If signing on behalf of the applicant, please state in what capacity.

Signature	DAVID C HOLLEY
Date	7 TH MARCH, 2016
Capacity	LICENSING AGENT

Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant’s solicitor or other authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 14) DAVID C HOLLEY 25 BROAD STREET, BATH			
Post town	BATH	Post code	BA1 5LW
Telephone number (if any)	07710 272 384		
If you would prefer us to correspond with you by e-mail, your e-mail address (optional) Dholley_licensing@btinternet.com			

ANNEX B

Part 2

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

That's What She Said Ltd
Basement Flat
3 Walcot Terrace
Walcot
Bath
BA1 6AB

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

Registered Business Number - 09711256

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

Mr Xavier Louis Lewis-Smith
Basement Flat
3 Walcot Terrace
Walcot
Bath
BA1 6AB

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

B&NES/15/02637/LAPER
Bath & North East Somerset Council

This licence is issued by Bath & North East Somerset Council as licensing authority under Part 3 of the Licensing Act 2003 and regulations made thereunder.

Signed for and on behalf of
Bath & North East Somerset Council:

Dated 5 October 2015

Annex 1 – Mandatory conditions

Mandatory conditions in respect of premises supplying alcohol for consumption on the premises only, or both on and off the premises:

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.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

From 28 May 2014:

The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1:

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(a)*;

(b) "permitted price" is the price found by applying the formula:

$$P = D + (D \times V)$$

where:

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence:

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994(b)*.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

(a)* 1979 c. 4. Section 1 was amended by regulation 2 of the Excise Duty (Amendment of the Alcoholic Liquor Duties Act 1979 and the Hydrocarbon Oil Duties Act 1979) Regulations 1992 (S.I. 1992/3158), section 162 of and Part 1 of Schedule 29 to the Finance Act 1995 (c. 4), section 7 of and paragraph 2(a) of Schedule 2 to the Finance Act 1991 (c. 31), section 3 of the Finance Act 1993 (c. 34), section 227 of and paragraph 51 of Schedule 39 to the Finance Act 2012 (c. 14), section 1 of the Finance Act 1995, section 1 of and Part 2 of Schedule 1 to the Finance Act 1988 (c. 39), section 5 of the Finance Act 1997 (c. 16) and Article 2 of the Alcoholic Liquor Duties (Definition of Cider) Order 2010 (S.I. 2010/1914). Section 2 was amended by article 6 of the Alcoholic Liquors (Amendment of Enactments Relating to Strength and to Units of Measurement) Order 1979 (S.I. 1979/241), regulation 2 of S.I. 1992/3158, section 11 of and Part 2 of Schedule 8 to the Finance Act 1981 (c. 35), section 7 of and paragraph 3 of Schedule 2 to the Finance Act 1991 and section 5 of the Finance Act 1997. Section 3 was amended by article 7 of S.I. 1979/241. Section 4 was amended by article 8 of S.I. 1979/241, section 15 of and paragraphs 2 and 3 of Schedule 1 to the Finance Act 2011 (c. 11) and section 227 of and paragraphs 51 of Schedule 39 to the Finance Act 2012 (c. 14). Section 5 was amended by section 1 of the Finance Act 1982 (c. 39) and section 180 of the Finance Act 2013. Section 36 was amended by section 7 of the Finance Act 1991, section 4 of and paragraph 1 of Schedule 1 to the Finance Act 2002 (c. 23), sections 14 and 15 of paragraphs 2 and 4 of Schedule 1 to the Finance Act 2011, section 180 of the Finance Act 2013 and section 1 of and paragraph 9 of Schedule 1 to the Finance Act (No. 2) Act 1992 (c. 48). Section 37 was amended by section 15 of and paragraph 1 of Schedule 1 to the Finance Act 2011 and section 180 of the Finance Act 2013. Section 54 was amended by section 1 of and paragraph 12 of Schedule 1 to the Finance (No. 2) Act 1992 and section 5 of the Finance Act 1985 (c. 54). Section 55 was amended by section 1 of the Finance Act 1984 (c. 43) and section 1 of and paragraph 13 of Schedule 1 to the Finance (No. 2) Act 1992. Section 62 was amended by section 3 of the Finance Act 1996 (c. 8), section 10 of the Finance (No.2) Act

1997 (c. 58), section 180 of the Finance Act 2013, section 4 of the Finance Act 1998 (c. 36) and section 3 of the Finance Act 1997. There are other amendments which are not relevant to this Order.

(b)* 1994 c. 23. Section 2 was amended by section 3 of the Finance (No.2) Act 2010 (c.31). Section 7 was amended by section 76 of and Part 1 of Schedule 36 to the Finance Act 2009 (c. 10) and section 203 of and paragraphs 2 and 3 of Schedule 28 to the Finance Act 2012 (c. 14). Section 24 was amended by section 19 of and paragraph 1 of Schedule 8 to the Finance (No.3) Act 2010 (c.33). There are other amendments which are not relevant to this Order.

From 1 October 2014:

The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises: (a) games or other activities which require or encourage, or are designed to require or encourage individuals to i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol) or, ii) drink as much alcohol as possible (whether within a time limit or otherwise); (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective; (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective; (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol. (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified under the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either - a) a holographic mark, or b) an ultraviolet feature.

ANNEX B

4. The responsible person must ensure that: a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures - i) beer or cider: ½ pint; ii) gin, rum, vodka or whiskey: 25ml or 35ml; and iii) still wine in a glass: 125ml; b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Annex 2 – Conditions consistent with the Operating Schedule

All staff to be trained in the sale of alcohol with training records kept on the premises, these records to be made available to the police and licensing authority for inspection.

Hot food will be available at all times the premises are open to the public.

All 'off sales' of alcohol to be sold in sealed containers unless it is to be consumed in the area covered by the Tables and Chairs Permit.

There will be signage clearly visible at all exits from the premises requesting persons to leave quietly.

A Challenge 21 policy will operate at the premises where any persons purchasing alcohol who appear under that age will be asked for identification that proves age.

ANNEX B

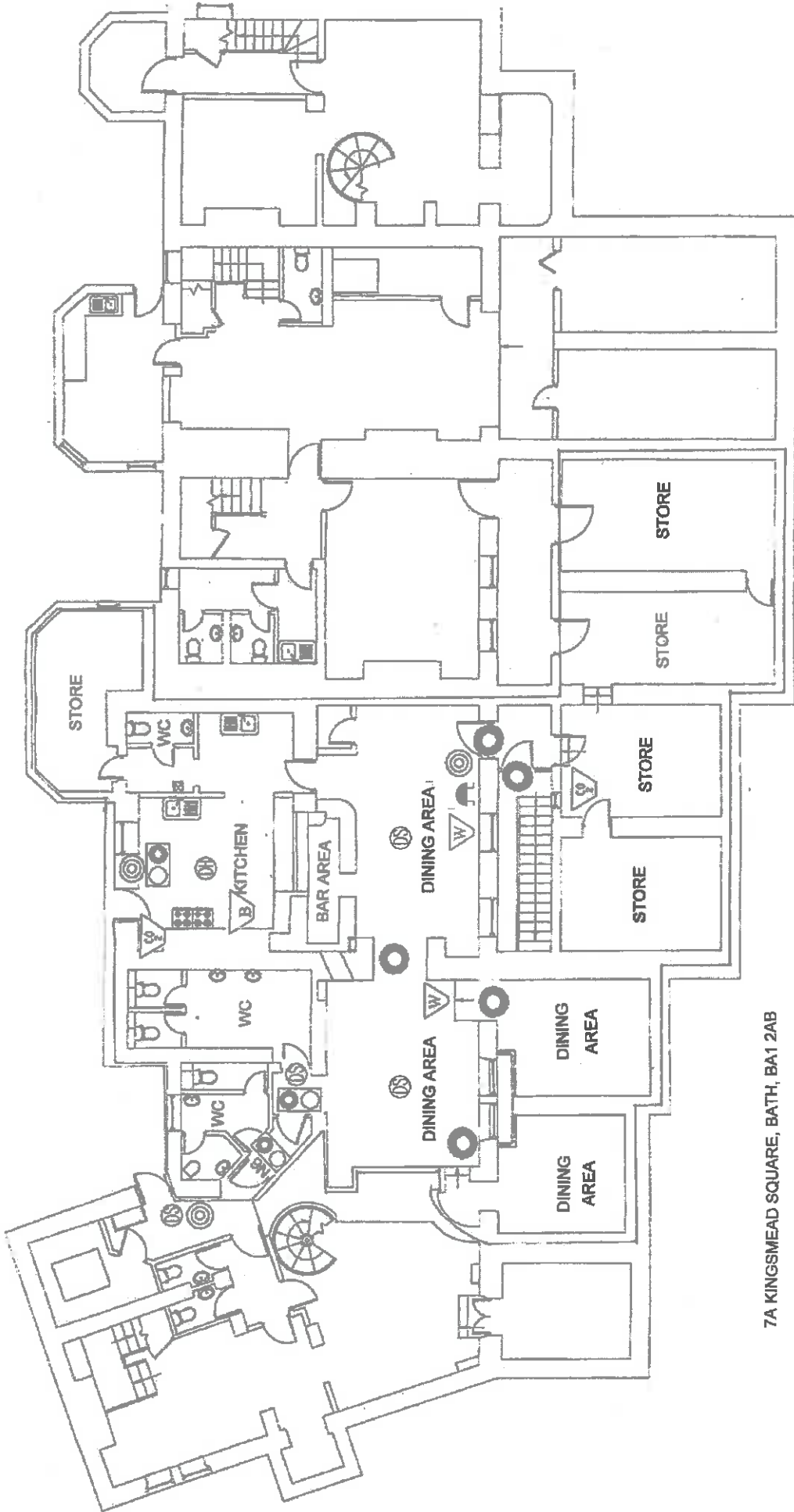
Annex 3 – Conditions attached after a hearing by the licensing authority

ANNEX B

Annex 4 – Plans

As submitted with application.

ANNEX B



7A KINGSMEAD SQUARE, BATH, BA1 2AB

SCALE 1:100

PLAN DRAWING SYMBOL SHEET

	FIRE ALARM SOUNDER		CARBON DIOXIDE EXTINGUISHER, 4 LITRE CAPACITY UNLESS OTHERWISE STATED		EMERGENCY LIGHTING POINT		SMOKE DETECTOR
	FIRE ALARM ACTUATING POINT		FIRE BLANKET, 1M X 1M UNLESS OTHERWISE STATED		ILLUMINATED EXIT SIGN		HEAT DETECTOR
			WATER EXTINGUISHER, 9L CAPACITY UNLESS OTHERWISE STATED	N6	FIRE DOOR, KEEP SHUT		



**Avon & Somerset Constabulary
Representations Licensing Act 2003.**

Your Name	Geoff CANNON	
Job Title	POLICE LICENSING OFFICER	
Postal and email address	2 nd Floor REDBRIDGE HOUSE MIDLAND RD BATH BA2 3EW	
Contact telephone number/e-mail address	Geoff.Cannon@avonandsomerset.police.uk	
Name and address of the premises you are making representations about.	THE DARK HORSE 7A KINGSMEAD SQUARE BATH BA1 2AB	
Which of the four licensing Objectives does your representation relate to? Please state yes or no.	Yes Or No	Please detail the evidence supporting your representation. Or the reason for your representation. Please use separate sheets if necessary
The Prevention of harm to children		
To prevent Public Nuisance		
To prevent crime and disorder	YES	The Dark Horse is a small premises located below ground level in Kingsmead Square, Bath. It is marketed as a 'cocktail bar' which is reinforced in the variation application. Kingsmead Square becomes particularly busy when nearby licensed premises close their doors at 0200hrs. Kingsmead Square is also situated on a route that many late – night revellers use to walk from the City Centre to southern and western areas of Bath, particularly after city centre licensed premises have closed. There is also a take - away that stays open until 0300hrs every night in Monmouth Street which attracts custom from late – night drinkers. The premises fall within the cumulative impact area and there is a real risk of increased Anti – Social behaviour, crime and disorder and public nuisance by granting this variation as it stands. The police do not object to the variation of hours, allowing the supply of alcohol until midnight Mon – Wed, until 0100hrs on Thursdays and 0200hrs on Friday and Saturday nights. However, the Police feel that the application to vary the licence lacks detail and clarity to further the licensing objectives in respect of this type of application that has been applied for. For example, there is no indication of how long the applicant proposes to keep CCTV images in order to assist the police with any enquiries. The police are also concerned that the removal of the existing

ANNEX D	condition "Hot food will be available at all times the premises are open to the public" would encourage drinkers from the Dark Horse to seek food after the premises has closed at the nearby take – away resulting in an increase in public nuisance and / or disorder. A number of conditions have been offered and agreed with the applicant to rectify this position,
Public Safety	
Suggested conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account. Please use separate sheets where necessary and refer to checklist.	<ol style="list-style-type: none"> 1. A digital CCTV system will be fitted and maintained at the premises in consultation with the Police. The images will be of evidential quality, time and date marked and will be kept for a minimum of 31 days. Images from this system will be made available to the Police on request. 2. The existing condition regarding hot food to be removed and replaced with: Light – menu based meals will be made available at all times during the opening hours of the premises. 3. Due to the premises operating predominantly as a "cocktail bar" and to prevent under-age drinkers trying something less mainstream, the existing condition relating to "Challenge 21" to be removed and replaced with the following: A Challenge 25 proof of age scheme shall be adopted, implemented and advertised at the premises. An accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo card driving licence and passport 4. To assist with reducing potential crime and disorder and to effectively control entry and exiting from the premises during the busiest and later nights: There will be at least one SIA registered member of door staff on duty at the entrance to the premises on Thursday, Friday and Saturday nights from 1900hrs until closing.

N.B If you do make a representation you will be expected to attend the Licensing Sub Committee and any subsequent appeal proceeding.

Signed: G Cannon

Date: 21/03/16

This form must be returned within the Statutory Period. (With supporting evidence).

Terrill Wolyn

From: Geoff Cannon <Geoff.Cannon@avonandsomerset.police.uk>
Sent: 05 April 2016 15:32
To: Terrill Wolyn
Subject: Additional information in support of Police rep for the Dark Horse

Hi Terrill.

Could you please attach a copy of this e-mail to the papers for The Dark Horse Hearing as confirmation of acceptance of the proposed conditions. This was reinforced by phone later.

Thanks.

With kind regards,

Geoff Cannon

BANES Police Area Licensing Officer
Redbridge House
BATH BA2 3EW

☎ Ext: 01278 645524 Int: 45524

Mob: 07889 655950

✉ Geoff.Cannon@avonandsomerset.pnn.police.uk

From: Louis Lewis-Smith [mailto:louis@darkhorsebar.co.uk]
Sent: 18 March 2016 18:39
To: Geoff Cannon
Subject: Re: Variation application

Thanks Geoff,

I'm knee-deep into a Friday evening here already so will respond properly tomorrow, but just wanted to thank you for your time today. I felt that you understood well what I'm trying to achieve here at The Dark Horse and I'm appreciative of your reconsidering of the hours, truly.

I'm having a meeting with my business partner tomorrow (the brains!) and we'll discuss everything from today but in brief I'm fine with where we're at.

Have a great weekend.

Cheers,

Louis

Louis Lewis-Smith
Admiral
The Dark Horse
m: 0796 008 2200

----- Original message -----

From: Geoff Cannon <Geoff.Cannon@avonandsomerset.police.uk>

Date: 18/03/2016 15:06 (GMT+00:00)

To: "louis@darkhorsebar.co.uk" <louis@darkhorsebar.co.uk>

Subject: Variation application

Good afternoon Louis.

Many thanks again for meeting me today and having a fruitful discussion. Summarised below are the key points of the meeting which we agreed would form conditions consistent with the operating schedule that would operate under the proposed change of hours. The Police objection to the variation is not to the change of hours as such, but that the applicant needs to demonstrate more clearly how the variation will not impact on any of the 4 Licensing Objectives, particularly as the premises are situated in a Cumulative Impact Area. Everything we discussed from a Police perspective covers this. The proposed new conditions are as follows:

- At least one SIA registered door staff will be on duty at the main entrance to the premises on Thursday, Friday and Saturday from 1900 hours until closure.
- A digital CCTV system will be fitted and maintained at the premises in consultation with the Police. Images produced from this system will be of evidential quality, time and date marked and will be kept for a minimum of 31 days. Images will be made available to the Police on request with the minimum of delay.

The existing condition promoting Challenge 21 to be removed and replaced by:

- A Challenge 25 proof of age scheme shall be adopted, implemented and advertised at the premises. An accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo card driving licence and passport.

The existing condition "Hot food will be available at all times the premises are open to the public" to be removed and replaced by:

- Light menu – based meals will be available to customers at all times during the opening hours of the premises.

I will not be objecting to the following as recorded under section M of the application **A N N E v E**

- Only 2 draught beers and / or Cider to be available
- No cans of Lager or beer to be available for sale.

I will ask for these to be included as conditions.

Apart from the two changes mentioned above, all existing conditions will remain on the licence.

Please confirm you agree with all of the above and I will include this fact in my representation. If there are any concerns, feel free to ring me on the mobile no. below for a chat.

With kind regards,

Geoff Cannon

BANES Police Area Licensing Officer

Redbridge House

BATH BA2 3EW

☎ Ext: 01278 645524 Int: 45524

Mob: 07889 655950

✉ Geoff.Cannon@avonandsomerset.pnn.police.uk

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