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16 September 2022

**NOTE:** There will be limited public access to observe the meeting. Admission is by ticket only, bookable by 4pm the day prior to the meeting via: [committees@midsussex.gov.uk](mailto:committees@midsussex.gov.uk). Access is also available via a live stream through the [Mid Sussex District Council's YouTube channel](#).

## PLEASE NOTE START TIME OF MEETING

Dear Councillor,

A meeting of **LIQUOR LICENSING COMMITTEE** will be held via **COUNCIL CHAMBER** on **TUESDAY, 27TH SEPTEMBER, 2022 at 10.00 am** when your attendance is requested.

Yours sincerely,  
KATHRYN HALL  
Chief Executive

### A G E N D A

#### Pages

1. To receive apologies for absence.
2. To receive Declarations of Interests from Members in respect of any matter on the Agenda.

**The procedure the Licensing Panel will follow in considering the application is set out in the Licensing Act 2003, its attendant Regulations and was agreed by the Licensing Committee on 2nd February 2005. The Licensing Panel, in accordance with rule 14 of the Licensing Act 2003 (Hearings) Regulations 2005 decide to exclude the public from all or part of the hearing where the Licensing Panel considers that it is in the public interest to do so.**

3. Application to vary a Premises Licence - Licensing Act 2003. **3 - 72**

## Human Rights Act Implications

### Licensing Act 2003

A licensing authority must carry out its function under the Licensing Act 2003 with a view of 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.

In carrying out its licensing functions a licensing authority must also have regard to:-

- (a) its licensing statement published under Section 5 of the Licensing Act 2003 (this may be viewed on the Mid Sussex District Council website);

and

- (b) any guidance issued by the Secretary of State under Section 182 of the Licensing Act (this may be viewed on the Department for Culture, Media and Sport website).

Members are asked to consider the human rights implications for both the licensee who has rights under Article 1 of the First Protocol, the Right to Property (which includes the licence); and the objectors who have rights under Article 8 to Respect for Private and Family Life, and Article 1 of the First Protocol, their right to enjoy peaceful use of their possessions.

To: **Members of Liquor Licensing Committee:** Councillors J Henwood, C Laband and J Mockford

## Application to vary a Premises Licence – Licensing Act 2003

REPORT OF: Tom Clark, Head of Regulatory Services

Contact Officer: Jon Bryant, Senior Licensing Officer  
Email: [jon.bryant@midsussex.gov.uk](mailto:jon.bryant@midsussex.gov.uk) Tel: 01444 477428

Wards Affected: Hurstpierpoint and Downs

Key Decision No

Report To: Liquor Licensing Panel

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### Purpose of Report

- 1 To provide information in order that the Committee can determine an application to vary a Premises Licence.

### Summary

- 2 An application, pursuant to Section 34 Licensing Act 2003, has been made by Flint Bishop Solicitors on behalf of Poynings Property Limited to vary a Premises Licence at The Royal Oak, The Street, Poynings, BN45 7AQ. Representations against the application have been made by six Interested Parties on the grounds of a Prevention of Public Nuisance.
  - 3 The substance of the variation application is to vary the plan to operate an outside bar in the existing outside drinking area which is part of the current licensed area and to amend the additional conditions currently attached to the licence.
  - 4 The Committee is asked to determine the application in accordance with the Licensing Act 2003, MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.
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### Background

- 5 Poynings Property Limited are the holder of a Premises Licence for the Royal Oak Inn, The Street, Poynings, West Sussex BN45 7AQ. This is issued under Licence number PWA0304. The Pub has held a Premises Licence since the introduction of the Licensing Act 2003 and previously under the previous Act, the Licensing Act 1964. The 1964 Act Licence was transferred to the existing licensing regime.
- 6 The Royal Oak is currently licensed for the following licensable activities;

Licensable Activity	Timings
Sale by retail of alcohol	Sunday 12:00 - 22:30
	Monday to Saturday 11:00 - 00:00
	Christmas Eve 11:00 - 00:00
	Boxing Day 11:00 - 00:00
	New Year's Day 11:00 - 00:00

Non Standard Timings –

Sale Of Alcohol

Christmas Eve )  
Boxing Day ) 11:00 to 00:00 hours  
New Year's Day )

New Year's Eve - From start of Licensing Hours New Year's Eve to end of  
Licensing Hours New Year's Day

Sundays Of Bank Holiday Weekends – 12:00 to 00:00 hours

- 7 The current opening hours of the premises are:

**Monday to Saturday 09:00 - 00:30**  
**Sunday 09:00 - 23:00**

Non Standard Timings - Premises Opening Hours

Christmas Eve )  
Boxing Day ) 09:00 to 00:30 hours  
New Year's Day )

New Year's Eve - From start of Licensing Hours New Year's Eve to end of  
Licensing Hours New Year's Day

Sundays Of Bank Holiday Weekends – 09:00 to 00:30 hours

- 8 The additional Conditions that are currently attached to this licence in addition to the Mandatory Conditions are

No drinks in open containers (e.g. glasses) and opened bottles are to be taken from the premises including the garden.

Prominent signs shall be displayed at exits asking customers to leave quietly.

No regulated entertainment of any type shall take place on the premises.

Any person who appears under the age of 18 and who is attempting to buy alcohol shall be required to produce 'Proof of Age' before such a sale is made.

- 9 It should be noted that the applicant submitted a previous application to vary the Premises licence in April 2022. This prior application was withdrawn and therefore the Committee should disregard references to the withdrawn application as it is not under consideration.

- 10 The application before the Committee is to amend the current plan of the licensed premises to incorporate the addition of sale of alcohol from an external bar. It is requested that the sale of alcohol from the outside bar is permitted daily until 22:00 hours. The amended plan is attached to the report at Appendix 2.



- 11 It is requested that the following existing conditions be removed:

*No drinks in open containers (e.g. glasses) and opened bottles are to be taken from the premises including the garden.*

To be replaced by

*Customers will not be permitted to remove from the premises any drinks supplied by the premises (alcoholic or otherwise) in open containers unless to an external area set aside for consumption.*

*Any person who appears under the age of 18 and who is attempting to buy alcohol shall be required to produce 'Proof of Age' before such a sale is made.*

To be removed as this condition is already included in the Mandatory Conditions attached to the licence

- 12 No representations have been received from any of the Responsible Authorities
- 13 Six representations have been received from members of the public, referred to as 'Interested Parties' within the Act. The main points raised in the representations that are relevant relate to the licensing objective of the Prevention of a Public Nuisance. These representations have not been resolved.
- 14 The application was correctly advertised at the site between 20<sup>th</sup> July 2022 to 16<sup>th</sup> August 2022 and in the Mid Sussex Times on 28<sup>th</sup> July 2022.

## **Representations**

- 15 Interested Parties Representations.

The representations in full are appended to the report. There are a number of issues raised within the representations that are not considered by the Licensing Team as relevant to this application for example concerning odour, parking etc. The Committee acting as the Licensing Authority will disregard comments that are considered by the Committee as not relevant.

### **Tim Sebley**

Mr Sebley makes his representations on the grounds of a public nuisance and in essence concerns the potential for increased public nuisance through the intensified use of the outside area. He raises other issues concerning odour and traffic.

Mr Sebley does suggest a compromise that the outside bar should only be open between 11am – 6pm Saturday and Sundays and closed on weekdays. His representations are attached at appendix 6

### **John Comber**

Mr Comber makes extensive representations on various grounds. His full representations are attached. He has disputed that some of his

representations are considered not to be relevant. The Committee are best placed to determine which parts of his representations are relevant to this application.

His representations are attached at appendix 7

### **Jan Nichols**

Jan Nichols has made representations on the Grounds of the Prevention of a Public Nuisance and the content of the representation is that they consider the application will lead to an intensification of the use of the outside area and as a result will cause increased public nuisance through noise.

Her representations are attached at Appendix 8

### **Adrian Salanson**

Adrian Salanson has made representations on the grounds of prevention of a public nuisance and is in relation to the potential intensified usage of the Royal Oak beer garden.

His representations are attached at Appendix 9

### **Peter Holy and Justine Johnstone**

Peter Holy and Justine Johnstone have made representations on the grounds of prevention of a public nuisance. They concern the potential for public nuisance being caused through the potential increased usage of the outside area.

Their representations are attached at Appendix 10

### **Erica and Lloyd Hampshire**

Erica and Lloyd Hampshire have made representations on the grounds of prevention of a public nuisance. Again these concern the potential for public nuisance being caused through the potential increased usage of the outside area.

Their representations are attached at Appendix 11

## **Policy Context**

### **16 Determination of Application for the Variation of a Premises Licence**

The Committee must determine the application in accordance with the Licensing Act 2003 (LA03), MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.

### **17 Section 34 of the LA03 deals with applications for the variation of a premises licence.**

### Section 34 Application to vary premises licence

- (1) The holder of a premises licence may apply to the relevant licensing authority for variation of the licence.
- (2) Subsection (1) is subject to regulations under—
  - (a) section 54 (form etc. of applications etc.);
  - (b) section 55 (fees to accompany applications etc.).
- (3) An application under this section must also be accompanied by the premises licence (or the appropriate part of that licence) or, if that is not practicable, by a statement of the reasons for the failure to provide the licence (or part).
- (4) This section does not apply to an application within section 37(1) (application to vary licence to specify individual as premises supervisor).

### 18 Section 35 LA03 deals with the determination of the application:

- (1) This section applies where the relevant licensing authority—
  - (a) receives an application, made in accordance with section 34, to vary a premises licence, and
  - (b) is satisfied that the applicant has complied with any requirement imposed on him under subsection (5) of that section.
- (2) Subject to subsection (3) and section 36(6) the authority must grant the application.
- (3) Where relevant representations are made, the authority must—
  - (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
  - (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.
- (4) The steps are—
  - (a) to modify the conditions of the licence;
  - (b) to reject the whole or part of the application;and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.
- (5) In this section, “relevant representations” means representations which—
  - (a) are about the likely effect of the grant of the application on the promotion of the licensing objectives and

(b) meet the requirements of subsection (6),

(6) The requirements of are—

(a) that the representations were made by a responsible authority or other person within the period prescribed under section 17(5)(c) by virtue of Section 34(5)

(b) that they have not been withdrawn, and

(c) in the case of representations made by a person who is not a responsible authority, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

19 Supplementary Provisions about determinations under Section 35

Supplementary provision about determinations under section 35

(1) Where an application (or any part of an application) is granted under section 35, the relevant licensing authority must forthwith give a notice to that effect to—

(a) the applicant,

(b) any person who made relevant representations in respect of the application, and

(c) the chief officer of police for the police area (or each police area) in which the premises are situated.

(2) Where relevant representations were made in respect of the application, the notice under subsection (1) must state the authority's reasons for its decision as to the steps (if any) to take under section 35(3)(b).

(3) The notice under subsection (1) must specify the time when the variation in question takes effect.

That time is the time specified in the application or, if that time is before the applicant is given that notice, such later time as the relevant licensing authority specifies in the notice.

(4) Where an application (or any part of an application) is rejected under section 35, the relevant licensing authority must forthwith give a notice to that effect stating its reasons for rejecting the application to—

(a) the applicant,

(b) any person who made relevant representations in respect of the application, and

(c) the chief officer of police for the police area (or each police area) in which the premises are situated.

(5) Where the relevant licensing authority determines for the purposes of section 35(6)(c) that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.

(6) A licence may not be varied under section 35 so as—

(a) to extend the period for which the licence has effect, or

(b) to vary substantially the premises to which it relates.

(7) In discharging its duty under subsection (2) or (3)(b) of that section, a licensing authority may vary a premises licence so that it has effect subject to different conditions in respect of—

(a) different parts of the premises concerned;

(b) different licensable activities.

(8) In this section “relevant representations” has the meaning given in section 35(5).

## 20 Relevant Representations

The Licensing Act 2003 requires representations to address the four licensing Objectives which are

1. Prevention of Crime and Disorder
2. Promotion of Public Safety
3. Prevention of Public Nuisance
4. Prevention of Harm to children and young persons

21 A representation is a ‘relevant representation’ if it is about the likely effect of the grant of the licence on the promotion of the licensing objectives. The objector must establish that such a consequence is a *likely* effect of a grant - (ie more probable than not)

## 22 Guidance Issued Under Section 182 of the Licensing Act 2003

### 9.3

Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below), the licensing authority’s discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

### 9.4

A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the

local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives.

For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

#### 9.5

It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.

#### 9.9

It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

#### 9.37

As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

#### 9.38

In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- Guidance issued under Section 182 Licensing Act 2003;
- its own statement of licensing policy.

#### 9.42

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They

should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

#### 9.43

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

### **Other Options Considered**

- 23 In order to lawfully provide licensable activities as applied for, they must be conducted under the authority of a Premises Licence.

### **Financial Implications**

- 24 The final decision made by the Committee in this matter is subject to appeal in the Magistrates Court by any party to the proceedings.

### **Other Material Implications**

- 25 Section 136 Licensing Act 2003 – A person commits an offence if he carries on or attempts to carry a licensable activity on or from any premises otherwise than under and in accordance with an authorisation or he knowingly allows a licensable activity to be so carried on.
- 26 A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine or both.

### **Sustainability Implications**

- 27 None

### **Background Papers**

Appendix 1 – Application Form and plan of premises  
Appendix 2 – Current Premises Licence Plan  
Appendix 3 – Proposed new Premises licence Plan  
Appendix 4 – Area Map  
Appendix 5 – Photos of Location

### **Representations**

Appendix 6 – Tim Sebley  
Appendix 7 – John Comber  
Appendix 8 – Jan Nichols  
Appendix 9 – Adrian Salanson  
Appendix 10 – Peter Holy and Justine Johnstone  
Appendix 11- Erica and Lloyd Hampshire

Appendix 12 – Applicants offered conditions  
Appendix 13 – Extract of Agreed Hearings Procedure

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**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.

WE, Poynings Property Limited

*(Insert name(s) of applicant)*

**Being the premises licence holder, apply to vary a premises licence under S34 of the Licensing Act 2003 for the premises described in Part 1 below.**

<b>Premises Licence Number</b> PWA0304
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**Part 1 – Premises Details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>			
The Royal Oak The Street Poynings			
<b>Post Town</b>	Brighton	<b>Postcode</b>	BN45 7AQ

Telephone number at premises	01273 857389
Non-domestic rateable value of premises	£71,400.00

**Part 2 - Applicant Details**

<b>Daytime contact telephone number</b>	
<b>E-mail address (optional)</b>	
<b>Current postal address if different from premises address</b>	REDACTED
<b>Post Town</b>	REDACTED
<b>Postcode</b>	REDACTED

### Part 3 - Variation

Do you want the proposed variation to have effect as soon as possible?  Yes  No

If not do you want the variation to take effect from

Day		Month		Year					

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1)  Yes  No

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

The application proposes to –

1. Amend the licensing plan in accordance with the drawing which accompanies the application and to permit the sale of alcohol from an external bar servery
2. Remove existing conditions and add new conditions

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

N/A

### 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 yes          |
|---|--------------------------|
| 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)

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

**In all cases complete boxes K, L and M**

**A**

<b>Plays</b> Standard days and timings (please read guidance note 8)			<b>Will the performance of a play take place indoors or outdoors or both – please tick</b> (please read guidance note 4)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			<b>Please give further details here</b> (please read guidance note 5)	Both	<input type="checkbox"/>
Tue					
Wed					
Thur			<b>State any seasonal variations for performing plays</b> (please read guidance note 6)		
Fri					
Sat					
Sun			<b>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</b> (please read guidance note 7)		

**B**

<b>Films</b> Standard days and timings (please read guidance note 8)			<b><u>Will the exhibition of films take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 5)		
Mon					
Tue					
Wed			<b><u>State any seasonal variations for the exhibition of films</u></b> (please read guidance note 6)		
Thur					
Fri			<b><u>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</u></b> (please read guidance note 7)		
Sat					
Sun					

C

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 8)			<b><u>Please give further details</u></b> (please read guidance note 5)
Day	Start	Finish	
Mon			
Tue			<b><u>State any seasonal variations for indoor sporting events</u></b> (please read guidance note 6)
Wed			
Thur			<b><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></b> (please read guidance note 7)
Fri			
Sat			
Sun			

D

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 8)			<b><u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Both	<input type="checkbox"/>				
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 5)		
Mon					
Tue			<b><u>State any seasonal variations for boxing or wrestling entertainment</u></b> (please read guidance note 6)		
Wed					
Thur					
Fri			<b><u>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</u></b> (please read guidance note 7)		
Sat					
Sun					

E

<b>Live music</b> Standard days and timings (please read guidance note 8)			<b><u>Will the performance of live music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 5)		
Mon					
Tue					
Wed			<b><u>State any seasonal variations for the performance of live music</u></b> (please read guidance note 6)		
Thur					
Fri					
Sat			<b><u>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</u></b> (please read guidance note 7)		
Sun					

F

<b>Recorded music</b> Standard days and timings (please read guidance note 8)			<b><u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 5)		
Mon					
Tue					
Wed			<b><u>State any seasonal variations for the playing of recorded music</u></b> (please read guidance note 6)		
Thur					
Fri			<b><u>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</u></b> (please read guidance note 7)		
Sat					
Sun					



**G**

<b>Performances of dance</b> Standard days and timings (please read guidance note 8)			<b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 5)		
Mon					
Tue					
Wed			<b><u>State any seasonal variations for the performance of dance</u></b> (please read guidance note 6)		
Thur					
Fri			<b><u>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</u></b> (please read guidance note 7)		
Sat					
Sun					

H

<p><b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 8)</p>			<p><b><u>Please give a description of the type of entertainment you will be providing</u></b></p>		
Day	Start	Finish	<p><b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)</p>	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<p><b><u>Please give further details here</u></b> (please read guidance note 5)</p>		
Wed					
Thur			<p><b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 6)</p>		
Fri					
Sat			<p><b><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></b> (please read guidance note 7)</p>		
Sun					

I

<b>Late night refreshment</b> Standard days and timings (please read guidance note 8)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 5)		
Mon					
Tue			<b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guidance note 6)		
Wed					
Thur			<b><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></b> (please read guidance note 7)		
Fri					
Sat					
Sun					

**J – NO CHANGE**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 8)			<b><u>Will the supply of alcohol be for consumption (Please tick box)</u></b> (please read guidance note 9)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>State any seasonal variations for the supply of alcohol</u></b> (please read guidance note 6)		
Mon					
Tue					
Wed					
Thur					
Fri					
Sat					
Sun					
			<b><u>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</u></b> (please read guidance note 7)		

**K**

<p><b>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</b> (please read guidance note 10)</p> <p>NONE</p>
---

L

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 8)			<b><u>State any seasonal variations</u></b> (please read guidance note 6)
Day	Start	Finish	
Mon	No Change	No Change	
Tue	No Change	No Change	
Wed	No Change	No Change	
Thur	No Change	No Change	
Fri	No Change	No Change	
Sat	No Change	No Change	
Sun	No Change	No Change	<b><u>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</u></b> (please read guidance note 7)  As existing

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

We seek to remove the following conditions currently imposed on the licence as these are either being replaced with updated conditions or already covered by the mandatory conditions –

1. No drinks in open containers (e.g. glasses) and opened bottles are to be taken from the premises including the garden.
4. Any person who appears under the age of 18 and who is attempting to buy alcohol shall be required to produce 'Proof of Age' before such a sale is made.

- 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 premises licence

N/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,e)** (please read guidance note 11)

*[The information provided in this box is solely for information only and not intended to be converted into conditions on the Licence]*

Our application seeks to amend the licensing plan with the creation of an external bar servery and for this to be included within the licensed area from which to permit the sale of alcohol from.

We are seeking the external bar servery in order to take the pressure off the main bar servery inside the premises at peak trading times, to aid social distancing, and to create a better customer experience.

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

1. Customers will not be permitted to remove from the premises any drinks supplied by the premises (alcoholic or otherwise) in open containers unless to an external area set aside for consumption.

**c) Public safety**

As existing

**d) The prevention of public nuisance**

2. The sale of alcohol from the external bar servery shall be permitted daily until 22:00

**e) The protection of children from harm**

As existing

**Checklist:**


**Please tick to indicate agreement**

- I have made or enclosed payment of the fee; or
- 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.
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I understand that I must now advertise my application
- I have enclosed the premises licence or relevant part of it or explanation
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT**


**Part 5 – Signatures** (please read guidance note 12)

**Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent** (See guidance note 13). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	19/07/2022
Capacity	Solicitors for and on behalf of the applicant

**Where the premises licence is jointly held, signature of 2<sup>nd</sup> applicant (the current premises licence holder) or 2<sup>nd</sup> applicant’s solicitor or other authorised agent.** (please read guidance note 14). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 13)	
George Domleo Flint Bishop LLP St. Michael’s Court St. Michael’s Lane Derby DE1 3HQ	
Telephone number (if any)	01332 340 211
<b>If you would prefer us to correspond with you by e-mail your e-mail address (optional)</b> 	

**Notes for Guidance**

**This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.**



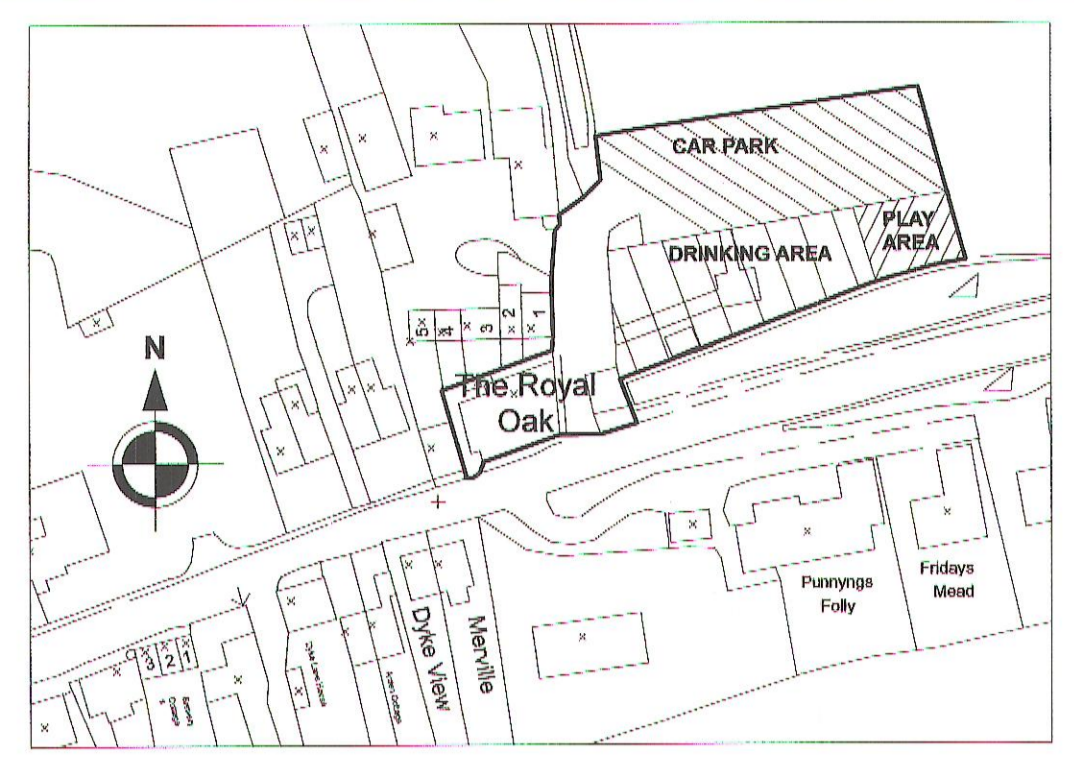
1. You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable for the late night levy
2. Describe the premises. For example, the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place of consumption of these off-supplies of alcohol, you must include a description of where the place will be and its proximity to the premises.
3. In terms of specific regulated entertainments please note that:
  - Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
  - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
  - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
  - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
  - Live music: no licence permission is required for:
    - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
    - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
    - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
    - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
    - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
  - Recorded Music: no licence permission is required for:
    - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
    - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar

- community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
- any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
  - Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
    - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
    - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
    - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
    - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
4. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
  5. For example state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
  6. For example (but not exclusively), where the activity will occur on additional days during the summer months.
  7. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
  8. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.
  9. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
  10. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
  11. Please list here steps you will take to promote all four licensing objectives together.

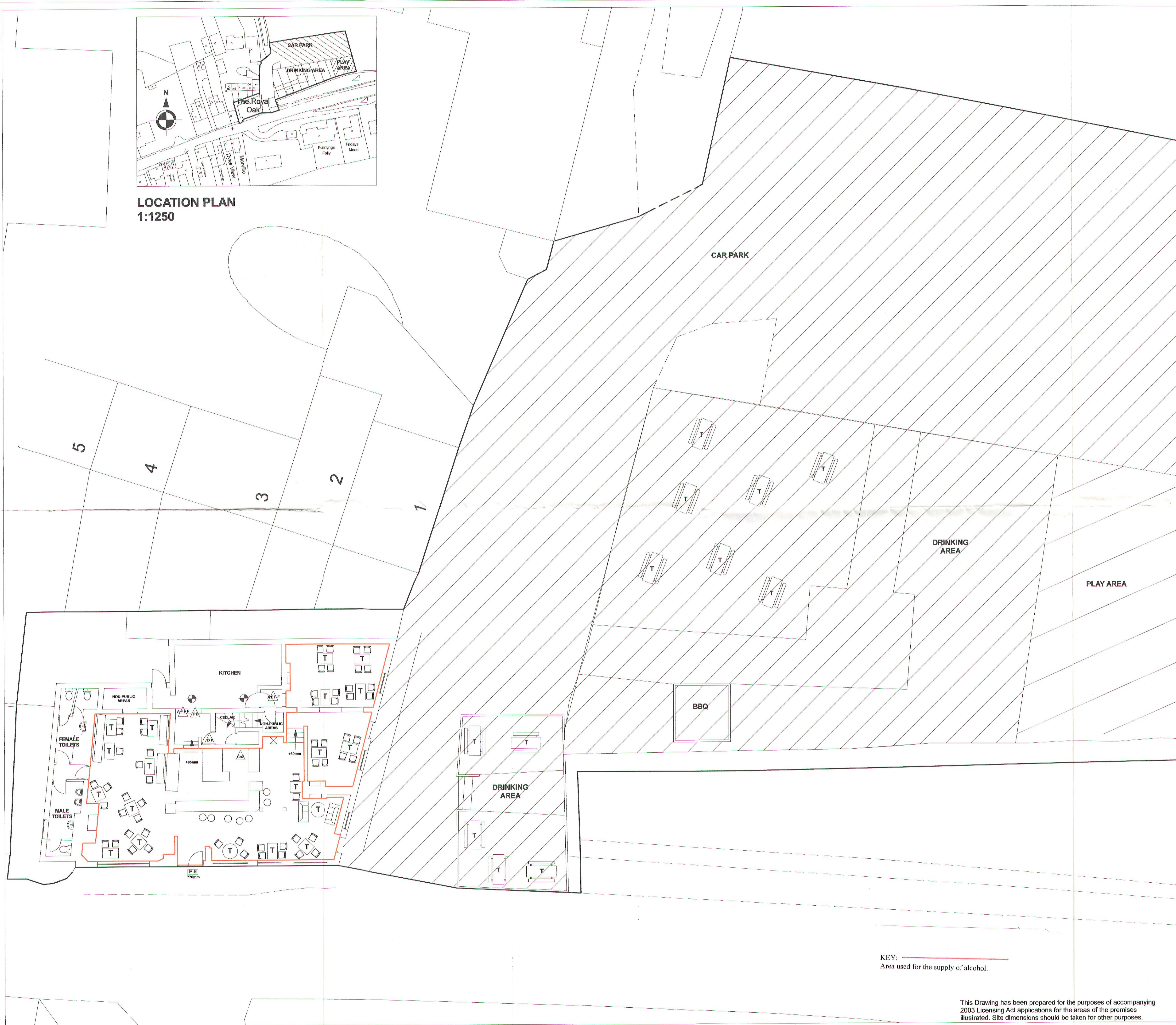
12. The application form must be signed.
13. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
14. Where there is more than one applicant, each of the applicants or their respective agents must sign the application form.
15. This is the address which we shall use to correspond with you about this application.  
to correspond with you about this application.

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**LOCATION PLAN**  
 1:1250



- THE ROYAL OAK,  
 The Street,  
 Poynings,  
 BN45 7AQ**
- T.V Monitor.
  - Chair.
  - Table.
  - Pool Table.
  - Bar Stool.
  - AWP/SWP Video and ATM.
  - Dartboard.
  - Projector & Screen.
  - Illuminated EXIT Sign.
  - Emergency Light.
  - Break Glass Fire Alarm Call Point.
  - Fire Alarm Siren.
  - Ionisation Smoke Detector.
  - Heat Detector.
  - AFFF Extinguisher - 6 litre capacity
  - Co2 Extinguisher - 2kg capacity
  - Dry Powder Extinguisher - 2.25kg or 4.5kg capacity
  - Water Extinguisher - 9 litre capacity
  - Fire Blanket - 1.2m x 1.2m
  - Half hour fire resisting self-closing door & frame with combined intumescent fire & smoke seals. Door to have "Fire Door- Keep Shut" notices to both sides unless otherwise indicated.
  - One hour fire resisting door & frame, combined intumescent fire & smoke seals. Door to have "Fire Door - keep locked" notice to external face unless otherwise indicated.
  - Door fitted with Panic Bar & "PUSH BAR TO OPEN" Notice.
  - Fire Exit Door - Clear opening width.  
 E.g. 800mm
  - Site Boundaries  
 E.D.A.

EXISTING FLOOR AREA	s.q.m
EDA - drinking Area less entrance lobbies	126.12
Gross Floor Area - Everything less licensee's accommodation (Internal)	192.03
Kitchen Floor Area	23.64
Dining Covers	106.85
External Drinking Areas	635.55

**JEFF MASON ASSOCIATES**  
 HOTEL & LEISURE DESIGN CONSULTANTS

Shaftesbury House - Orchard Street  
 Burton upon Trent - Staffs - DE14 3SA Tel: 01283 569547 Fax: 01283 510278

CLIENT **Scottish & Newcastle Pub Enterprises**  
 PROJECT **THE ROYAL OAK, The Street, Poynings, BN45 7AQ**  
 DRAWING **Licensing Layout**

SCALE	1:100	DRAWN	JMD/ASM	DATE	14.02.05	DRG. NO.	2119/8CC3760	REV	
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All dimensions to be checked on site before work is commenced. Do not scale from this drawing. This drawing is copyright and must not be reproduced without consent.

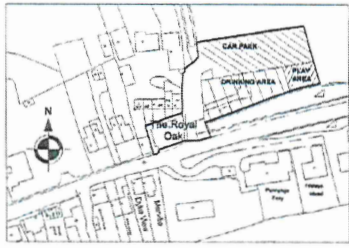
KEY: Area used for the supply of alcohol.

This Drawing has been prepared for the purposes of accompanying 2003 Licensing Act applications for the areas of the premises illustrated. Site dimensions should be taken for other purposes.

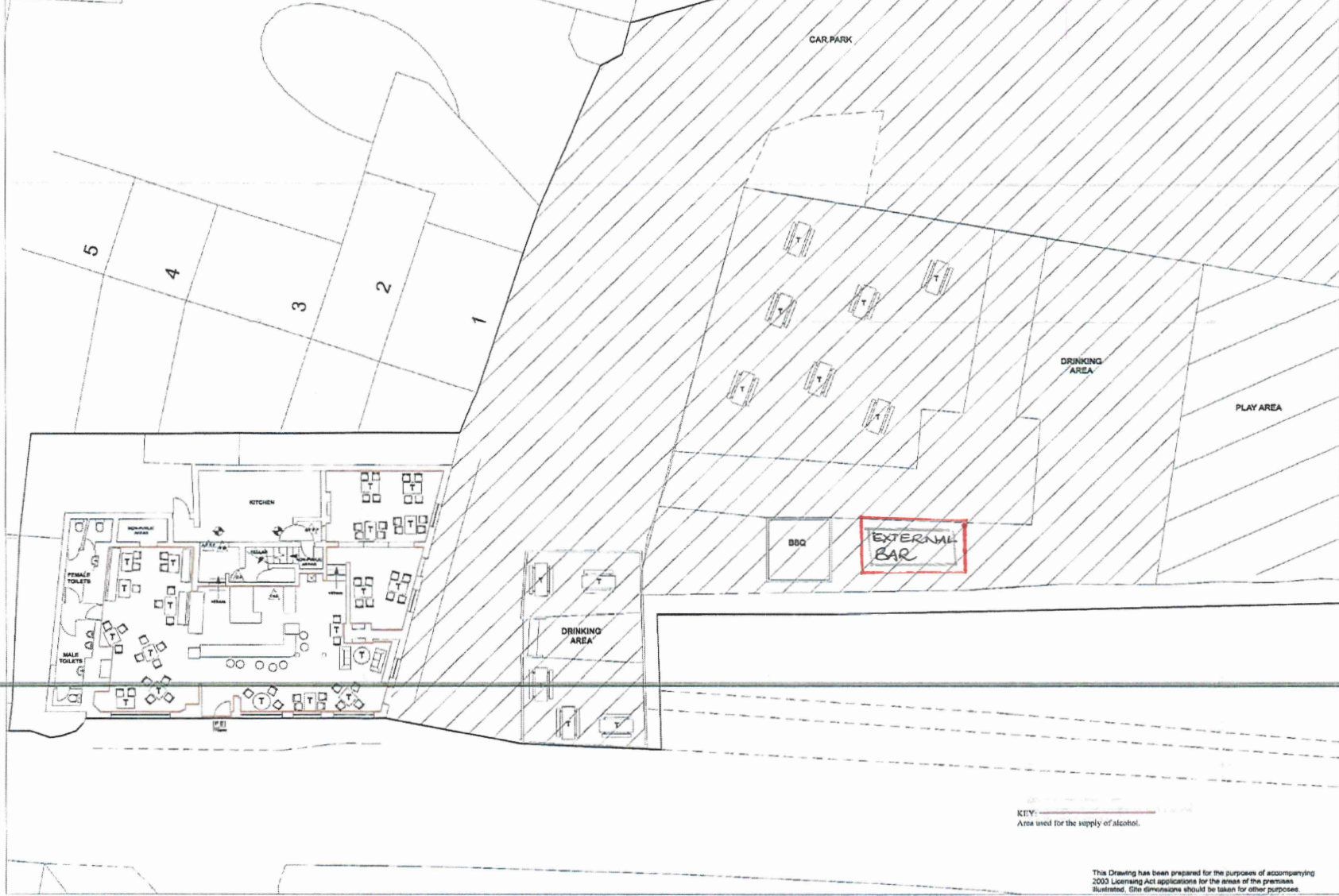


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**THE ROYAL OAK,  
The Street,  
Poynings,  
BN45 7AQ**



**LOCATION PLAN  
1:1250**



- T.V Monitor.
- Chair.
- Table.
- Pool Table.
- Bar Stool.
- AWP/SPW Video and ATM.
- Dartboard.
- Projector & Screen.
- Illuminated EXIT Sign.
- Emergency Light.
- Break Glass Fire Alarm Call Point.
- Fire Alarm Siren.
- Ionisation Smoke Detector.
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- AFFF Extinguisher - 6 litre capacity
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- PBDT Door fitted with Panic Bar & "PUSH BAR TO OPEN" Notice.
- Fire Exit Door - Clear opening width. E.g. 800mm
- Site Boundaries E.D.A.

EXISTING FLOOR AREA	m <sup>2</sup> (sq.m)
EDA - drinking area less entrance lobbies	126.12
Gross Floor Area - Everything less licensee's accommodation (Internal)	192.03
Kitchen Floor Area	23.34
Dining Covers	106.85
External Drinking Areas	635.65

**JEFF MASON DESIGN ASSOCIATES**  
HOTEL & LICENSE DESIGN CONSULTANTS  
Market Street - Oxford Road  
Barnes Lane - South - 1st Fl - Tel: 01235 50967 Fax: 01235 51079

CLIENT: **Scottish & Newcastle Pub Enterprises**  
PROJECT: **THE ROYAL OAK, The Street, Poynings, BN45 7AQ**  
DRAWING: **Licensing Layout**

SCALE: 1:100 DRAWN: JMS/AMM DATE: 14.02.05 (Dwg. No.) 2119/0CC3760 REV

All drawings to be checked on site before work commences and to be checked after work. Copyright © 2005 Jeff Mason Design Associates

**KEY:**  
Area used for the supply of alcohol.

This Drawing has been prepared for the purposes of accompanying 2003 Licensing Act applications for the areas of the premises illustrated. Site dimensions should be taken for other purposes.

*licensed area*

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# APPENDIX 4



Words to  
Freelance C

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Front of Pub



Access to Car Park





Top of Drive



Car Park Area





View of outside bar from entrance to car park



Outside Bar from entrance from Car Park





View from end of garden area



View across garden area





View of bar



View of garden area from opposite the Pub



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**From:** [Tim Sebley](#)  
**To:** [licensing](#); [Jon Bryant](#)  
**Subject:** Representations against an application by The Royal Oak in Poynings made by Flint Bishop for a Variation of the Premises Licence  
**Date:** 15 August 2022 15:21:29

---

You don't often get email from REDACTED. [Learn why this is important](#)

Please refer to the title Variation Application and my comments related to the licensing objectives are:

#### Public Nuisance:

When the pub first instigated the use of the garden bar without bothering to apply for a variation, it was the noise from customers that instigated my investigation into the legality of their actions. The noise nuisance has also persisted over the last 4 weekends (24/24, 30/31 July, covered by a TEN application and 6/7 Aug with no TEN application and this last weekend 13/14 Aug). Having a second bar in the beer garden will serve more customers than the internal pub bar in the summer months May to September inclusive. More customers with their children de facto mean more noise as nearby residences have already experienced this year. The pub attitude to their noise nuisance from one of their managers is quote: 'What do you expect when you live so close to a pub'!! No such noise nuisance complaints exist from neighbours for example from the nearby Shepherd and Dog in Fulking. Noise nuisance is not compatible with living in a National Park. Furthermore I note that although Flint Bishop have applied for this variation, none of them are affected by this application nor is there a noise reduction plan available for comment which they wholeheartedly recommend on their website. Lastly we already experience offensive cooking odours from the pub even when the beer garden is not in use. By allowing another bar with more customers and thus more food orders, the odours will become more of a nuisance to neighbours.

#### Health and Safety:

Having a second bar in the beer garden will attract more customers and their children and dogs in the summer months. There are significant H&S issues with these customers moving from the garden to the pub building and back again to, for example, use the toilets. More customers also means more cars trying to park in the pub car park and also in the 'Street' public road which causes unacceptable traffic chaos leading to road rage by frustrated car users. The village through road 'The Street' is not wide enough to support extra volume traffic caused by larger pub usage with higher volume of cars and vans.

The variation seeks to allow the beer garden bar to open each day between 11am and 10pm. I am prepared to comprise with suggesting that any beer garden bar should only be open Saturdays and Sundays between 11 am and 6pm and closed weekdays. This is what has happened for the last 4 weekends.

Kind regards  
Mr T SEBLEY

[Sent from the all-new AOL app for iOS](#)

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**PRELIMINARY REPRESENTATIONS IN RELATION TO AN APPLICATION FOR THE VARIATION OF THE PREMISES LICENCE OF THE ROYAL OAK IN POYNINGS MADE ON 19 JULY 2022**

**Section 36(6)(b) of the Licensing Act 2003**

1. This application for the variation of the pub's licence must be rejected since it would vary substantially the premises to which the licence relates.
2. The note at the end of the application form states:

**“This application cannot be used to vary the licence so as .... to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.”**

The note accurately summarises the effect of section 36(6)(b) of the Licensing Act 2003.

3. The existing licence does not authorise the sale by retail of alcohol in the outside areas of the pub. This is clear from the licence plan. The licence only authorises the sale by retail of alcohol in the red-lined area on the ground floor of the Royal Oak building. The key to that plan indicates that that area is an area used for the supply of alcohol. “The supply of alcohol” has the technical meaning given by section 14 of the Act and means “the sale by retail of alcohol”. The sale takes place “where the alcohol is appropriated to the contract” (see section 190). That happens inside the Royal Oak building. There is no other red-lined area shown on the plan. The other areas shown on the plan are described as drinking areas, children's play area and car park and are not red-lined. They are not therefore currently licensed “for the supply by retail of alcohol”. The outdoor bar if licensed would be an addition to the premises licensed “for the supply by retail of alcohol”. That's why the applicant asks for the outdoor bar “to be **included** in the licensed area”.

4. The outdoor bar is in the middle of the pub's beer garden in an area some distance from the Royal Oak building and separated from it by the access road to the car park. The danger to customers and staff using the road on foot at busy times (which was identified by the pub's manager in his previous application for licensing the outdoor bar) means that the outdoor bar will in practice be run as a separate entity. When open it will serve considerably more customers than the indoor bar. The variation if allowed would mean in effect that we will have 2 pubs in Poynings one inside the Royal Oak building (perfectly acceptable) and one outside (more problematic because of the need to prevent public nuisance by noise). This addition to the licensed area would constitute a **substantial** variation of the premises to which the licence relates. For that reason your authority has no power to vary the licence in response to this application and any purported variation would be subject to challenge in the courts.

## **FURTHER REPRESENTATIONS IN RELATION TO AN APPLICATION FOR THE VARIATION OF THE PREMISES LICENCE OF THE ROYAL OAK IN POYNINGS MADE ON 19 JULY 2022**

### **Duty to promote statutory objectives**

1. Your authority is under a duty by virtue of section 4 of the Licensing Act 2003 to carry out its functions under the Act with a view to **promoting** the licensing objectives set out in subsection (2). If your authority licences the use of the outdoor bar as proposed by the applicant, this would undermine rather than promote the statutory objectives and increase the negative impacts those objectives are designed to control.
2. Section 6 of the Human Rights Act 1998 is also engaged in relation to your authority's licensing function (see the reminder in paragraph 1.10 of the Secretary of State's guidance under section 108). It is unlawful for a public authority to act in a way which is incompatible with a convention right. A licensing authority should not licence activities which are likely to infringe protected human rights. Conditions should be framed in a way which ensures that protected rights are not infringed.

### **The prevention of public nuisance**

#### **Noise nuisance**

3. Public address systems and amplified music played outside in this location will cause a public nuisance. The use of such systems in the outside areas of the pub has caused significant problems in the past. It is likely to do so in the future unless this subject is properly addressed by licence conditions. Villagers were outraged by the pub's previous application to licence the outside bar because the use of such systems in the manner proposed would obviously cause noise nuisance.
4. The present application is silent on the subject of amplified live music. However, it is proposed that the outdoor bar should be **included** in the licensed area. But that licensed area authorises on-sales as well as off-

sales. That is unnecessary for the bar since the rest of the garden and patio area are not to be included in the licensed area. In order to serve those areas an off-sales licence is sufficient. The licensed area should be confined to the footprint of the outdoor bar since the proposal is to serve from that bar. An on-sale licence for the outdoor bar could be exploited to take advantage of the live music exemption conferred by paragraph 12A of Schedule 1 to the licensing Act 2003. In the particular circumstances, this would undermine, rather than promote, the prevention of public nuisance statutory objective.

5. We note that the pub's manager stated on Facebook that "There is no amplified music system installed anywhere in the garden including the new bar". This does not go far enough to reassure us. In order to avoid a repetition of the noise nuisances which have occurred in the past, we want a condition in the licence which prevents the use by anyone of any public address system or music amplification system in any of the pub's outdoor areas. That can certainly be achieved by an appropriately worded licence condition. The inclusion of such a condition is possible if the licensed area is confined as it should be to the footprint of the outside bar and it is made clear that, unlike the existing licensed area inside the Royal Oak building, the licence authorises off-sales only (see paragraph 16.44 of the Secretary of State's guidance under section 108). There is ample justification for such a condition in this particular case (see paragraphs 6 to 11 below).
  
6. The guidance headed "Beer Gardens and Children's Play Areas" in Appendix 9 of your authority's statement of licensing policy under the Licensing Act 2003 is relevant:

"Premises that have beer gardens and children's play areas may cause noise nuisance if residential premises are nearby. This problem will be exacerbated in the summer months.

Tips to control noise from beer gardens and children's play areas:

1. Music should not be played in these areas.

2. Doors leading onto the beer garden/play area should be kept closed, in order to contain the noise.
3. Management should control customer's behaviour in order to ensure it does not give rise to noise nuisance.
4. Access to these areas should be restricted, particularly at night, to ensure noise is controlled."

7. The pub is very close to residential premises. There are no doors to outdoor areas at all so there is no means to contain noise. We know from discussions with other villagers that intrusive amplified sound from events held in the pub's beer garden causes not only annoyance in the immediate vicinity but also causes annoyance to those living as far as 1/3 mile away. Problems of noise nuisance from weddings and other special events hosted by the pub go back a number of years. For example, we have an email from a neighbour complaining to your environmental health department about noise at such an event sent on 18 April 2017 at 10:45:40 BST. A clearly worded and readily enforceable condition is obviously preferable to relying on public nuisance complaints procedures. They cause a great deal of unnecessary work for enforcement staff. They also impose considerable additional burdens on villagers whose lives are plagued by intrusive noise. The noise should be prohibited in the first place.
8. We attach a copy of our previous representations as an example to show just how miserable our lives are made by such events held by the pub(see Annex).
9. Section 6 of the Human Rights Act 1998 is engaged in connection with your authority's licensing functions. This is important in relation to article 8 – right to respect for a person's private and family life and his home and also in relation to article 1 of the first protocol – right to the peaceful enjoyment of a person's possessions. This protects villagers whose homes and property are affected by intrusive noise (or offensive

odours arising from the activities carried on by the pub see paragraph 19 below).

10. Our experience is that there is intrusive noise (including vibrations) when there is a wedding or other special event which is catered for by the pub and amplified music is played or public address systems are used. This needs to be prohibited to prevent such noise nuisances in the future.

### **Public safety etc**

11. The applicant's previous application for a licence for the outdoor bar was based on the need to deal with the danger to customers and members of staff crossing the access road particularly at busy times. The danger identified by the pub's manager is the result of the sheer number of vehicles passing and repassing at those times.
12. But licensing the outdoor bar will not eliminate the danger. There will still be customers on the road when vehicles are using it. They may need to cross the road to access the pub's toilets. Staff may still have to cross the road to deliver food from the kitchens ordered for consumption in the food area of the garden. Then there are the customers who are drinking in the pub building itself. They will need to cross the road when they arrive or leave the pub. And the same goes for all customers retrieving their parked cars when leaving. Residents of our courtyard development also use the road on foot so they are at risk. So also are visitors and others using the public right of way over the access road (public nuisance!).
13. The remaining danger to pedestrians using the access road needs to be addressed in the licence so that the public is safe. A major cause of the danger is excess traffic generated by the use of the field adjacent to the pub's main car park as an overspill car park. The overspill car park practically doubles the number of customers travelling to the pub by car. Most of those customers will be served from the outdoor bar. If the outdoor bar is successful in generating more customers there will be



more people using the field to park and the traffic on the access road will increase which in turn will increase the danger to pedestrians using the access road. Any further expansion of the pub's outdoor bar will have huge implications in relation to all of the statutory objectives. Only a small portion of the field is used at present.

14. The public safety issues are not confined to the access road. The way the overflow car park is used poses an even greater risk, as we observed at the event described in the Annex. At the beginning of that event, there was a sudden surge of traffic entering the field through the narrow gate. At the same time customers, with their children, were leaving through the same gate after parking their cars in the field. There were also numbers of over-excited children running about all over the place whilst cars were still entering the field and manoeuvring to park. Later there was considerable noise nuisance from children playing unsupervised in the field.

15. The use of the field as an overspill car park has never been authorised by the South Downs National Parks Authority - the applicant has never applied for planning permission for such use. That means that any crime and disorder issues, public safety concerns, public nuisance issues, and child safety issues have never been addressed by the authority and properly regulated.

16. The use of the field as an overflow car park also infringes our convention right to privacy. There is no adequate screening and a large number of customers served by the outdoor bar will use the field for parking. Our main bedroom and principal sitting room are overlooked by customers parking in the field so there is a problem of overlooking which needs to be taken into account.

17. There are also public safety concerns as a result of excess traffic on the access road backing up and obstructing the main road leading to the pub. We understand that a fire engine crew ran into difficulties when

they were trying to attend a fire with a fire engine at one of the houses opposite the pub because of backed up pub traffic.

18. For all of the above reasons the licence should prohibit the use of the field as a car park. All of the statutory objectives are in play (not just public safety).

### **Offensive odours**

19. There are offensive cooking odours which permeate the whole area surrounding the pub when food is being cooked. The preparation of meals for customers who will be served with drinks from the outdoor bar is likely to be a major contributory cause of the odour problems in the future. This will be made considerably worse if, as seems likely, the pub intensifies its use of its outdoor areas.

20. Offensive cooking odours which invade our property make use of our outdoor areas unpleasant at times. But we know that the problem is much more serious for the occupants of the cottages in our courtyard development. They are particularly badly affected by offensive cooking odours. Their enjoyment of their properties is adversely affected in a way which amounts to a public nuisance and also infringes convention rights. Some years ago your environmental health department looked into these cooking odour problems but the problem has not been solved and the smells continue to offend. This is not just a problem which affects villagers. Visitors to the area will be offended as well. A suitably worded condition is needed to address this problem directly. The condition needs to be designed so as to eliminate the all-pervading offensive smells which originate from the preparation of food for customers served from the outdoor bar.

### **Prevention of crime and disorder**

21. The proposed new “drinks in open containers condition” should limit the external areas set aside for consumption to those currently set aside for consumption. They should be individually specified as such on the

amended licence plan or otherwise described with sufficient particularity that they can be readily identified. It should not be possible for the pub to add areas such as the field to the consumption areas without a licence variation which ensures that the statutory objectives are not circumvented.

### **The amended licence plan**

22. There has been a lot of unnecessary discussion about what constitutes the licensed premises mainly as a result of the legally inaccurate original guidance under section 182 in relation to beer gardens and the need or otherwise to licence them or show them on licence plans (Guidance can never overrule the wording of legislation and must be ignored if it conflicts with the law).

23. It is important that each licensed area is clearly identified and it should be indicated that the outdoor bar is only licensed for off-sales and that the internal area of the Royal Oak building is licensed for on-sales as well as off-sales.

### **Consequential amendments to existing regulated entertainment condition**

24. Consequential amendments are needed to the existing licence condition prohibiting regulated entertainment to take account of deregulation legislation and any variation of the licence made as a result of this application. It should apply differently in relation to the different licensed areas. It also should be applied to all outdoor areas of the pub.

## ANNEX

### **Extracts from our previous representations**

“Yesterday (Saturday 21 May 2022) illustrates just how intrusive amplified music is and the devastating effect of playing such music in the open air when there is an event on at the pub and the outdoor bar is open. My wife was trying that day to put the finishing touches to a document which she was preparing and which needed to be submitted to an extremely tight deadline which could not be extended. She was working inside with noise reducing ear plugs towards the end of our garden and as far away as possible from the source of the amplified sound in the pub’s beer garden. She was so distracted by the music and other noise coming from the pub and their customers’ over-excited children noisily playing in the field that she hardly achieved anything, despite trying with great determination to meet her looming deadline. We both were left drained and utterly exhausted after having to endure the noise and disturbance from the event next door. It began around midday and continued until around 9.45 in the evening. At one point in the evening I had to ring up the pub to formally complain when someone (who I thought was intoxicated) was screeching tunelessly at the top of her voice into the amplified sound system. It is intolerable to have to put up with this sort of disturbance. I was surprised therefore when there was initially some kickback from the assistant manager I spoke to on the phone when I described what was happening. Reluctantly he accepted that he needed to go and investigate the disturbance. It should not be necessary to complain to ensure that noise from licensed premises does not become a public nuisance. There should not be any intrusive sound at the perimeter of my property and, as the land falls away rapidly in my garden and the bulk of my house is interposed, there should be not be any sound at all in my back garden. However, that is never the case when the pub is catering for weddings or special events.”

“... noise nuisance is not confined to the immediate vicinity of the pub but extends widely to different parts of the village depending on the time of the day and other factors which affect how sound travels. The outdoor bar is obviously intended mainly for use when the pub is hosting wedding celebrations or other special events which have such a negative impact on the amenities of the village.”

“Our garden is a delightful place in which to sit during the summer months but whenever the pub is holding one of its special events delight turns to misery. We have to retreat indoors and distract ourselves by watching tv or something else to lessen the adverse impact of noise from the pub. Even with all doors and windows shut it is impossible to ignore it. It is during the summer months when we want to be outside enjoying our garden that the pub chooses to inflict this unacceptable intrusion into our lives. It is not just we who are affected, other villagers complain as well. Visitors to this wonderful village will go away appalled by the vulgarity of what is going on in the pub.”

“Our house is closest to the pub and before we bought it we considered carefully the downsides as well as the upsides of living here so close to a pub. The publican at that time was acutely aware of the problems which noise from the pub could cause given its proximity to residential property in the village. He told us he had a “no music policy” and assured us that he had no intention of changing it. The pub is now managed by different people and their operating schedule shows their complete disregard for the interests of their neighbours and the many visitors to our rural village who are seeking the peace and quiet of the country whilst appreciating its beauty. The pub’s building and our home and neighbouring properties are in a unique conservation area within an area of outstanding natural beauty in the South Downs National Park. The courts have recognised that people have a right to expect quiet in rural areas and the threshold of what constitutes public nuisance is much lower there than in more built up areas. When the pub hosts wedding celebrations and other special events, that threshold is crossed and the noise constitutes a public nuisance. This affects not only residents but also visitors to the area.”

## **ADDITIONAL REPRESENTATIONS IN RELATION TO AN APPLICATION FOR THE VARIATION OF THE PREMISES LICENCE OF THE ROYAL OAK IN POYNINGS MADE ON 19 JULY 2022**

### **Duty to promote statutory objectives – the prevention of public nuisance**

Given the closeness of the Royal Oak pub to residential premises and its lack, in its outdoor areas, of doors or windows to contain noise, there should be provision which translates **the whole** of your authority's guidance on "Beer Gardens and Children's Play Areas" in Appendix 9 of your authority's statement of licensing policy under the Licensing Act 2003.

The whole of the guidance needs to be turned into an enforceable condition of the licence. It certainly should not be limited to the use of public address systems and amplified music, although it is particularly important that they are covered as well.

Noise nuisance of any kind from the pub's outdoor areas must be prevented.

Your authority is under a positive duty to do all you can through the licence conditions to achieve the statutory objective in section 4(2)(c) (the prevention of public nuisance).

This is particularly important now that, as a result of Covid, there is an increased demand for safe outdoor eating and drinking spaces.

It is however equally important to ensure that outdoor areas used to satisfy this demand are properly regulated through readily enforceable licence conditions to prevent any noise nuisance. They have a particular propensity to cause such nuisance where premises are licensed to sell alcohol.

Customers' children have been using the field adjoining the pub's car park as a children's play area when the field is in use as an overflow car park. That results in noise nuisance and, since they are not supervised by their parents, the risk of harm to the children. This is an additional reason for a condition preventing the use of the field as an overflow car park.

## REPRESENTATIONS IN RELATION TO AN APPLICATION FOR THE VARIATION OF THE PREMISES LICENCE OF THE ROYAL OAK POYNINGS MADE ON 19 JULY 2022

### The prevention of public nuisance

I live a third of a mile away (as the crow flies) from the Royal Oak pub in Poynings in the northern part of the village.

My address is:-

REDACTED

REDCATED

REDCATED

I am particularly concerned about noise nuisance which happens when the pub is hosting wedding or special events such as those on bank holidays in the spring/summertime. I find it incredibly annoying to have to listen to the amplified music and the public address system in use in connection with these events. I have spoken to a number of villagers who live a similar distance from the pub and they share my annoyance. We all have a right to choose in our own homes what music we listen to and when we do so. It is appalling that we have to listen to this intrusive amplified noise from the pub at any time.

I understand that you are under a statutory duty to promote the prevention of public nuisance and that covers noise nuisance. I also understand that your authority has issued guidance about beer gardens and children's play area in Appendix 9 to your licensing policy statement. It states:

"Premises that have beer gardens and children's play areas may cause noise nuisance if residential premises are nearby. This problem will be exacerbated in the summer months.

Tips to control noise from beer gardens and children's play areas:

1. Music should not be played in these areas.
2. Doors leading onto the beer garden/play area should be kept closed, in order to contain the noise.
3. Management should control customer's behaviour in order to ensure it does not give rise to noise nuisance.
4. Access to these areas should be restricted, particularly at night, to ensure noise is controlled."

The Royal Oak is surrounded by residential premises but since their outdoor areas have no doors or windows which can be shut to contain noise amplified sound can be heard depending on time of day and wind direction as far away as my house. It is important that your guidance is turned into enforceable conditions of the pub's licence. They will not otherwise observe it. They know that it is contrary to the SDNP's planning policy to use the field just by their proper car park as an overspill car park. Nevertheless, they persist in using it and because it is so inviting for children they use it as a play area. There should be a condition preventing this use of the field.

Jan Nichols (Ms)



**From:** [Adrian Salanson](#)  
**To:** [licensing@midsussex.gov.uk](mailto:licensing@midsussex.gov.uk)  
**Cc:** [Jon Bryant](#)  
**Subject:** Variation application / Royal Oak Pub Poynings.  
**Date:** 15 August 2022 22:26:17

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Dear Sir / Madam

As a resident of Poynings living close to the rear of the Royal Oak Pub I would ask you not to grant this application for the following reasons.

Granting this application for a outside bar in the pub garden would only exasperate existing problems these being:

The noise level from the garden, having an outside bar will only encourage people to stay longer and get louder as they drink more.

More people will cause the pub kitchen to work overtime to produce more food resulting in more noise and smell from the kitchen extractors. I am sick and tired of just not the noise of the extractor fans but after being out drying my clothes smelling of a BBQ.

Parking in the village can be chaotic with the amount of customers the pub already gets. Having a second bar will only encourage more visitors to the pub thus causing more traffic problems.

I understand the owners and managers of the Royal Oak are running a business and want to see as bigger return for their investment but I also believe over development would be to the detriment of the people living in Poynings

Best Regards

Mr A Salanson

Sent from [Mail](#) for Windows

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**From:** [Justine Johnstone](#)  
**To:** [licensing](#)  
**Subject:** VARIATION APPLICATION BY ROYAL OAK INN, POYNINGS  
**Date:** 15 August 2022 14:19:05  
**Attachments:** [Royal Oak outdoor bar 2.docx](#)

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ADDRESS  
 REDACTED

15 August 2022

Dear Mid Sussex Licensing Dept.

VARIATION APPLICATION BY ROYAL OAK INN, POYNINGS

We are writing to object to the renewed application from the Royal Oak Inn, The Street, Poynings, West Sussex, BN45 7AQ, for permission to serve alcohol from a second, outside bar.

We live in a house directly opposite the pub and regularly experience a lot of noise and disruption from customers (and sometimes staff) leaving the pub late, slamming car doors, singing, shouting, swearing etc, not to mention endless litter of crisp and sauce packets, napkins and so on blowing or being dropped in our garden, and very smelly barbeque grilling. This has been increasing over the summer and is even worse when the pub hosts events with amplified music in the garden, when the racket makes it impossible to enjoy that whole side of our garden or to hold a conversation there, listen to the radio etc. These events even cause significant noise inside our house, which disturbs us when going to sleep as it carries into our bedroom. Also parking and traffic flow through The Street have steadily worsened due to the pub, and on summer weekends there is often major congestion outside our driveway, making it very difficult for us to get in and out, and forcing cars and trucks onto our driveway in an attempt to get past one another.

As we previously wrote to you in responding to the pub's initial variation application, it seems obvious to us that enabling the pub to serve alcohol from a garden bar will make all these problems much worse. If permitted we would essentially have not one but TWO pubs in the village, both directly opposite our house. Alcohol will be more easily and quickly accessible if pub customers can get served both inside and outside, and they will consequently drink more, and more people will be attracted to the venue. The impact on neighbouring properties like ours will be very significant and existing traffic problems will be exacerbated. It is essentially a new premises that they are applying to license, and one that will greatly change the nature of our village and what has until now been a quiet country pub, not a loud music venue. This is wholly wrong for the tiny village of Poynings and its location in the heart of the National Park. It is also a very significant change and one that seems to us to require a new licence application, not just an attempt such as this to push it through as a variation. As your application form states:

**“This application cannot be used to vary the licence so as .... to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make**

**a new premises licence application under section 17 of the Licensing Act 2003.”**

The outdoor licence also needs to be considered in relation to the question of amplified music, since this is a feature of the pub garden at present and undoubtedly will only increase if they are able to serve alcohol outside as well as inside. We note that Mid-Sussex Council's licensing policy Appendix 9 relating to Beer Gardens states:

*Premises that have beer gardens and children's play areas may cause noise nuisance if residential premises are nearby. This problem will be exacerbated in the summer months.*

*Tips to control noise from beer gardens and children's play areas:*

- 1. Music should not be played in these areas. Doors leading onto the beer garden/play area should be kept closed, in order to contain the noise.*
- 2. Management should control customers behaviour in order to ensure it does not give rise to noise nuisance.*
- 3. Access to these areas should be restricted, particularly at night, to ensure noise is controlled.*

Allowing an outside bar in the Royal Oak garden will turn this area into a beer garden and thus according to your policy music should not be played here. However the Royal Oak *DO* regularly have loudly amplified music in their garden and this is clearly not going to stop if they are able to serve alcohol from an outside bar! In fact it seems certain that an outside bar will increase the number and scale of noisy events. Permitting this variation to their licence would therefore seem to be in direct contravention of your own policy that music should not be played in beer garden areas.

The pub have recently posted on Facebook that there is no music amplification system **installed** in the new bar or garden. This is highly disingenuous as obviously bands can and do bring their own sound systems. And of course the pub could decide at any time to put in such a system. The lack of a built-in system has not stopped incredibly loud events taking place in the past and will not stop them in the future. It seems to us that the pub's Facebook statement is however an implied admission that amplified music is inappropriate in this village setting. If an outdoor bar is now going to be added in to the mix we would like the whole issue of amplified music also to be reconsidered as part of a full review.

These are not one-off issues either. The pub has consistently ignored planning regulations for example in constructing the outside bar and the solid base for the gazebo without the necessary permission, having amplified music inside the gazebo, and encroaching on the neighbouring field for parking and drinking. We understand that a number of contravention notices are in the offing. It seems that the owners are trying to turn what was a quiet country pub into a very different and much noisier venue that is totally unsuited to the Royal Oak's position at the heart of a small village in a National Park. We therefore for the second time strongly oppose the opening of an outside bar as this will inevitably increase the problems already being caused.

Yours sincerely  
Peter Holy  
Justine Johnstone

**From:** [Erica Werner](#)  
**To:** [licensing](#)  
**Subject:** Ref: Reference: LI/22/1140 Variation to licence Royal Oak Poynings BN45 7AQ  
**Date:** 15 August 2022 18:19:23  
**Attachments:** [image001.jpg](#)  
[image002.png](#)

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Dear Sirs

With reference to the above application which, if my understanding is correct, extends the current 'inside' licence to cover the outside/garden bar area, permitting the garden bar to operate as a full dispensing bar during all opening hours of the current licence which I understand to be 11am to midnight 7 days a week.

Also, if I understand correctly, licensing this area would permit live or recorded music to be played in the garden (to less than 500 persons), at any point during these opening hours, 7 days a week.

If my understanding is correct, then I am disappointed that this application differs very little from the original (withdrawn) application, and appears to still be in conflict with the Licencee's stated aim of 'occasional use to relieve traffic at peak times'. I would therefore like to reiterate my comments as previously submitted in the below emails

- I am afraid that I would have to object on the grounds of the prevention of public nuisance. A full service outdoor bar will inevitably increase noise emanating from the venue. As people gather around bars, ordering, vertical drinking, socialising and potentially dancing, noise volumes inevitably increase. Outdoor vertical drinking also encourages a drink-led trade (non diners) and also discourages the families that the pub claims to be seeking to attract (note that the bar is adjacent to the current children's play area). It will encourage people to congregate outside later and these drinkers could easily be serviced at the inside bar. Any increase in drinkers will also increase the volume of cars parking on the road (there is a real issue with pub goers not using the car park). The associated car noise will increase later into the evening. Outdoor vertical drinking also increases the risk of anti social behaviour and we object also on the basis of the prevention of crime and disorder. Increase of drinkers in the garden area, would also increase foot traffic across the public access road between the garden and the pub itself where the only toilets are situated. This is contrary to the stated aim of reducing foot traffic in this area.
- The ability to provide musical entertainment unregulated, in the outside spaces 7 days a week during these same hours would also constitute a public nuisance. I have absolutely no objection to occasional music events eg public holidays etc, but I do not feel that granting carte blanche on this would be appropriate for a country pub.

I reiterate my previous comments from my previous email:

To clarify, we absolutely do not wish to prevent the Royal Oak from their stated objective of 'occasional' events eg music at weddings, the occasional weekend and public holidays. We simply feel that any variation to the licence should accurately reflect this to retain the current family-focussed pub with the emphasis on dining.

It is clear that licencing the outside bar from 12pm to 12am daily 7 days a week will increase outside drinking, and will normalize and increase the likelihood of such events on a more regular basis which would constitute a public nuisance. Operating the bar at peak times eg Friday to Sunday 12 – 8pm would be sufficient to meet the business' stated requirements of ease of service and staff safety, and any special events, eg weddings, that might wish to continue till a later hour could, as now, be addressed through a temporary events licence to which we would have no objection.

We appreciate our local pub, and feel that by working together we can maintain a happy community. We have no wish to stand in their way of reasonable development, however a 7 day 12hour outside licence would indeed intensify the outside business, resulting noise and music which creates a public nuisance. A reduced hours / peak time licence, supplemented with temporary event licences as required would serve their needs, and we would not object to this.

Thanking you for your consideration

**Additional Proposed Conditions by Applicant**

1. Customers will not be permitted to remove from the premises any drinks supplied by the premises (alcoholic or otherwise) in open containers unless to an external area set aside for consumption.
2. The sale of alcohol from the external bar servery shall be permitted daily until 22:00.

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### LICENSING COMMITTEE - PROCEDURE AT HEARINGS

This is the procedure to be followed at Licensing Sub-Committee hearings when the Sub-Committee is exercising the functions delegated by the Licensing Committee under the Licensing Act 2003 as agreed by the Licensing Committee on 2<sup>nd</sup> February 2005.

#### 1.0 AT THE HEARING

- 1.1 The hearing shall take place in **public**, except where (as defined in the Hearings Regulations) the public interest requires the public's exclusion.

#### 2.0 Right of attendance, assistance and representation

- 2.1 A party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

#### 3.0 Procedure at the Hearing

- 3.1 The Chairman shall at the beginning of the hearing introduce the members of the Sub-Committee, invite the parties to identify themselves and then explain to the parties the procedure which the Sub-Committee intends to follow (this procedure).
- 3.2 The Sub Committee shall then consider any request made by a party for permission for another named person to appear at the hearing, such permission shall not be unreasonably withheld.
- 3.3 The hearing shall take the form of a **discussion** led by the Authority and **cross-examination** shall **not** be permitted **unless** the sub-committee considers that cross-examination is required for it to consider the representation, application or notice as the case may require.
- 3.4 The Sub-Committee must allow the parties an equal maximum period of time in which to exercise their rights to respond to a point or points of clarification and give further information in support of their application, representations or notice; question any other party (if permission has been given) and in which to address the sub-committee.

Members of the Licensing Sub-Committee may ask any question of any party or other person appearing at the hearing.

The Licensing Sub-Committee may take into account documentary or other evidence produced by a party before the hearing, or produced at the hearing if all other parties agree.

The Licensing Sub-Committee shall disregard any information given by a party or by any person to whom permission to appear at the hearing has been given by the Authority, which is not relevant to the Application representations or notice, (as applicable) or the promotion of the licensing objectives, or if the hearing is considering a notice given by the Chief Officer of police, which is not relevant to the crime prevention objective.

3.5 The Sub-Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:

- a) refuse to permit that person to return, or
- b) permit him to return only on such conditions as the authority may specify,

but such a person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

3.6 The Sub-Committee may, after hearing the representations of the parties, withdraw from the room to make their deliberations.

#### **4.0 Determination of applications**

4.1 The Sub-Committee shall make its determination at the conclusion of the hearing, or otherwise as prescribed by Regulation. The Secretary of State's Guidance states that the determination shall be 'given forthwith and reasons provided to support the determination'.

#### **5.0 Notification of Determination**

The authority shall notify a party of its determination forthwith, or otherwise if the Licensing Act 2003 so provides. Notification to a party will include a statement of the Sub-Committee's reasons for the decision and will be accompanied by information about the party's right of appeal against the determination.

#### **6.0 Failure of parties to attend the hearing**

6.1 If a party has informed the licensing authority that he/she does not intend to attend or be represented at the hearing, the hearing may proceed in his/her absence.

6.2 If a party who has not so indicated fails to attend or be represented at a hearing at the Sub-Committee may:-

- where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
- hold the hearing in the party's absence.

6.3 Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee shall consider at the hearing the application, representation or notice made by that party.

6.4 Where the Sub-Committee adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

#### **7.0 Record of proceedings**

7.1 A record of the hearing shall be kept for six years from the date of determination or, where an appeal is brought against the determination, the disposal of the appeal. The record must be in a permanent and intelligible form.

## 8.0 Irregularities

- 8.1 Any irregularity arising as a result of any failure to comply with the Hearing's Regulations **before** the authority had made a determination, does **not** render the proceedings void, and the authority shall, if it considers that any person may have been prejudiced as a result of the irregularity, take such steps as it thinks fit to cure the irregularity **before** reaching its determination.
- 8.2 Clerical mistakes in any document recording a determination of the authority or errors arising in such document from an accidental slip or omission may be corrected by the authority.

## NOTES

### Human Rights

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a convention right. The Sub-Committee will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following provisions:-

- Article 6 – in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 – everyone has the right to respect for his/her home and private and family life
- Article 1 of the first protocol – every person is entitled to the peaceful enjoyment of his/her possessions (this includes the possession of a licence).

### Members Interests

Members of the Sub-Committee shall consider whether they have a personal and/or prejudicial interest in the application or case before them in accordance with the requirements of the Code of Conduct for Mid Sussex District Council.

All interests should be disclosed to the Licensing Sub-Committee and recorded. Members with a prejudicial interest must take no part in the hearing and must withdraw from the room.

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