

Licensing (Licensing and Gambling) Sub-Committee

Thursday, 27th March, 2014
at 9.30 am

PLEASE NOTE TIME OF MEETING

Conference Room 3 - Civic
Centre

This meeting is open to the public
Members

Councillor Cunio
Councillor Lloyd
Councillor Parnell

Contacts

Democratic Support Officer
Karen Wardle
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Head of Legal and Democratic Services
Richard Ivory
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PUBLIC INFORMATION

Terms of Reference

The Sub-Committee deals with licences for which the Council is responsible under the Licensing Act, 2003 and Gambling Act 2005, including:-

- Personal licences for the sale of liquor, Licensing Act 2003;
- Premises licences, various permits, variations and reviews (Licensing Act 2003 and Gambling Act 2005);
- Club certificates, variations and reviews, Licensing Act 2003;
- Registration and deregistration of designated premises supervisors, Licensing Act 2003;
- Determination of police objections to temporary event notices, Licensing Act 2003

Relevant Representations

Those who have made relevant representations may address the meeting about the matter in which they have an interest.

When dealing with Licensing Act matters the Sub-Committee can only take into account the following statutory Licensing Objectives:-

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

Likewise, when dealing with Gambling Act matters the Sub Committee can only take into account the statutory Licensing Objectives below:-

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way, and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

Smoking policy

The Council operates a no-smoking policy in all civic buildings.

Southampton City Council's Priorities:

- **Economic:** Promoting Southampton and attracting investment; raising ambitions and improving outcomes for children and young people.
- **Social:** Improving health and keeping people safe; helping individuals and communities to work together and help themselves.
- **Environmental:** Encouraging new house building and improving existing homes; making the city more attractive and sustainable.
- **One Council:** Developing an engaged, skilled and motivated workforce; implementing better ways of working to manage reduced budgets and increased demand.

Fire Procedure –

In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

Access –

Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Mobile Telephones –

Please turn off your mobile telephone whilst in the meeting.

Dates of Potential Meetings Municipal Year 2013/14

2013	5TH DECEMBER
13TH JUNE	19TH DECEMBER
27TH JUNE	2014
11TH JULY	16TH JANUARY
25TH JULY	30TH JANUARY
8TH AUGUST	13TH FEBRUARY
22ND AUGUST	27TH FEBRUARY
5TH SEPTEMBER	13TH MARCH
19TH SEPTEMBER	27TH MARCH
3RD OCTOBER	10TH APRIL
17TH OCTOBER	24TH APRIL
7TH NOVEMBER	8TH MAY
21ST NOVEMBER	15TH MAY

CONDUCT OF MEETING

Terms of Reference

The terms of reference are contained in the Council's Constitution.

Business to be discussed

Only those items listed on the attached agenda may be considered at this meeting.

Rules of Procedure

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution and Licensing Act 2003 (Hearings) Regulations 2005.

Quorum 3

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

(i) Any employment, office, trade, profession or vocation carried on for profit or gain.

(ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or

b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

Other Interests

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

Agendas and papers are available via the Council's website.

1 ELECTION OF CHAIR

To appoint a Chair for the purposes of this meeting.

2 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)

To note any changes in the membership of the Sub-Committee made in accordance with the Licensing Act 2003.

3 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer.

4 STATEMENT FROM THE CHAIR

5 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)

To approve and sign as a correct record the Minutes of the meeting held on 27 February 2014 and to deal with any matters arising, attached.

6 EXCLUSION OF THE PRESS AND PUBLIC

At a predetermined point during the consideration of all items the Sub-Committee may move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and the public, unless otherwise excluded by the Licensing Act 2003 (Hearings) Regulations 2005, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

7 APPLICATION FOR REVIEW OF PREMISES LICENCE - SHIP INN, 107 VICTORIA ROAD, SOUTHAMPTON SO19 9DZ

Report of the Head of Legal and Democratic Services, detailing an application for a review of the premises licence in respect of Ship Inn, 107 Victoria Road, Southampton SO19 9DZ, attached.

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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 27 FEBRUARY 2014

Present: Councillors Cunio, Lloyd and Pope

66. **ELECTION OF CHAIR**

RESOLVED that Councillor Cunio be elected as Chair for the purposes of this meeting.

67. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

RESOLVED that the minutes of the meeting held on 13 February 2014 be approved and signed as a correct record.

68. **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED that in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 that the press and public be excluded at a predetermined point whilst the Sub-Committee reach its decisions.

69. **VARIATION APPLICATION FOR PREMISES LICENCE - DPS VARIATION - ENNIO'S, GEDDES WAREHOUSE, TOWN QUAY, SOUTHAMPTON SO14 2AR**

The Sub-Committee considered the application to vary an application for a premises licence – DPS variation in respect of Ennio's, Geddes Warehouse, Town Quay, Southampton SO14 2AR.

Mr Walter (proposed Designated Premises Supervisor), PC Conway and Miss Barrett (Hampshire Constabulary) were present and with the consent of the Chair, addressed the meeting.

The Sub-Committee considered the decision in confidential session in accordance with the Licensing Act (Hearings) Regulations 2005.

RESOLVED that the variation application for a premises licence – DPS variation be refused.

After private deliberation the Sub-Committee reconvened and the Chair read the following decision:-

All parties will receive formal written confirmation of the decision and reasons.

The Sub-Committee has considered very carefully a variation application for a premises licence – DPS variation at Ennio's, Geddes Warehouse, Town Quay. It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy. Human rights legislation has been borne in mind.

The Sub-Committee has determined to refuse the DPS variation application.

Reasons

It has considered very carefully all the evidence submitted by both parties, both written and given orally today.

It has considered very carefully the personal circumstances of the proposed DPS and the specific circumstances relating to the offence, now relied upon by the Police. In particular the proposed DPS made the following points:

- the length and breath of experience in the licence trade and role of DPS;
- that this was an isolated incident during a period of personal upheaval;
- the low risk of the premises to which the proposed DPS has been appointed; and
- the lack of incidents of concern during the course of previous employment at the premises and others.

However, despite all of the above the Sub-Committee held considerable concern with regard to the exceptional circumstances of the offence, particularly the level of alcohol consumed, the erratic nature of his driving and the level of damage caused. The Sub-Committee as a result accepted police evidence that the proposed DPS would present a risk to the licensing objectives and specifically the crime prevention objective. Accordingly it was considered appropriate to reject the application. The Sub-Committee were referred to paragraphs 4.26 to 4.28 of the statutory guidance and took this into account whilst reaching the decision.

The Sub-Committee notes that the relevant offence in this case remains “unspent” until 2018 which is a considerable period. At this point in time it was not satisfied that a sufficient period of time had elapsed, however this position will always be considered on the merits of any application.

There is a right of appeal for all parties against the decision to the Magistrates Court. Formal notification of the decision shall be forwarded to all parties and will set out that right.

70. **APPLICATION TO VARY A PREMISES LICENCE - ALDERMOOR CONVENIENCE STORE, 237-239 ALDERMOOR ROAD, SOUTHAMPTON SO16 5NU**

The Sub-Committee noted that the application to vary a premises licence in respect of Aldermoor Convenience Store, 237-239 Aldermoor Road, Southampton SO16 5NU no longer required a hearing as agreement had been reached between the parties and the objectors had withdrawn their representations.

Agenda Item 7

DECISION-MAKER Licensing (Licensing and Gambling) Sub-Committee

SUBJECT Hearing to Consider an application for Review of Premises Licence –
Ship Inn, 107 Victoria Road, Southampton SO19 9DZ

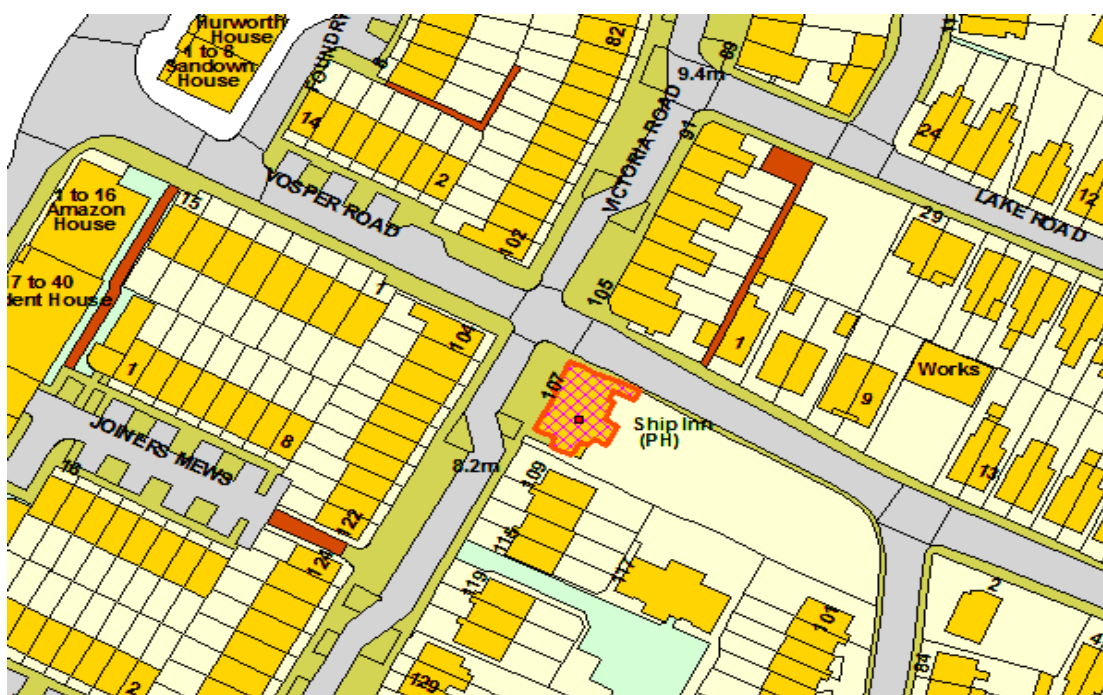
DATE OF HEARING Thursday 27 March 2014

REPORT OF Head of Legal and Democratic Services

E-mail licensing@southampton.gov.uk

Application Date : 31 January 2014 Application Received : 3 February 2014

Application Valid : 3 February 2014 Reference : 2014/00805/015SRP



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Responsible Authority	Satisfactory?
Child Protection Services - Licensing	No Response Received
Hampshire Fire And Rescue - Licensing	No Response Received
Environmental Health - Licensing	Yes

Planning & Sustainability - Building Control - Licensing	No Response Received
Primary Care Trust - Public Health Manager	No Response Received
Police - Licensing	Yes
Trading Standards - Licensing	Yes

Other Representations

Name	Address	Contributor Type

Legal Implications

1. Part 3 of the Licensing Act 2003 provides that a responsible authority of a resident or business in the vicinity (interested party) may apply for review of a premises licence
2. The grounds of review applications must relate to one or more of the licensing objectives
3. In such circumstances, the applicant for the review must serve a copy of the review application on the holder of the premises licences, the City Council and each of the responsible authorities.
4. On receipt of the application for review, the officers will consider its validity, under delegated powers. Reasons for rejection, in whole or in part, include:

that the grounds for review are not relevant to one of more of the licensing objectives and;

(in the case of an application not made by a responsible authority), that the application is frivolous, vexatious or repetitious..
5. The City Council must, within one day of receiving the application for review, display a prescribed notice of the review application on the outside or adjacent the premises; the notice must remain on display for 28 days and any interested party in the vicinity or the responsible authorities may make representations in that period.
6. Unless the applicant, licence holder, interested parties and responsible authorities agree that a hearing is unnecessary, the City Council is then required to hold a hearing to consider the review.

: The sub-committee, in considering the application for review, must have regard to the adopted Statement of Licensing Policy and evidence before it at the hearing.
7. The Licensing Act 2003 provides that, in determining an application for review, the sub-committee may take any (or none) of the following steps, as it considers necessary:

Modify the conditions of the licence;

Exclude a licensable activity from the scope of the licence;

Remove the designated premises supervisor;

Suspend the licence for a period not exceeding three months

Revoke the licence.

8. The Licensing Act 2003 makes provision for appeal to the Southampton Magistrates' Court against the sub-committee's decision in relation to an application for review
9. In considering this application the sub-committee will sit in a quasi-judicial capacity and is thus obliged to consider applications in accordance with both the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation and the rules of natural justice. The practical effect of this is that the sub-committee must make its decision based on evidence submitted in accordance with the legislation and give adequate reasons for reaching its decision
10. Copies of the application for review and the applicant's objection are annexed to this report
11. The sub-committee must also have regard to:-

Crime and Disorder Act 1998

Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Human Rights Act 1998

The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matters set out in this report must be considered in light of the above obligations.

Southampton City Council

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

I **BRIAN MICHAEL KNIGHT**

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

THE SHIP INN
107 VICTORIA ROAD
WOOLSTON

Post town SOUTHAMPTON

Post code (if known) SO19 9DZ

Name of premises licence holder or club holding club premises certificate (if known)

Number of premises licence or club premises certificate (if known)



Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)

- | | |
|---|-------------------------------------|
| a) a person living in the vicinity of the premises | <input checked="" type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| d) a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |

- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

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

Surname

KNIGHT

First names

BRIAN MICHAEL

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

[REDACTED]

Post town

SOUTHAMPTON

Post Code

S019 [REDACTED]

Daytime contact telephone number

[REDACTED]

E-mail address (optional)

[REDACTED]

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

Please provide as much information as possible to support the application
(please read guidance note 2)

NO NOISE PREVENTION MEASURES HAVE BEEN PUT IN PLACE AT ANY TIME, BY ANY LANDLORD. WHEN THE PREMISES RE-OPENED IN JUNE 2013 AFTER A BRIEF PERIOD OF CLOSURE, HEAVY CURTAINS WHICH WERE THE ONLY NOISE-REDUCING FEATURE, WERE REMOVED. THE WINDOWS ARE OF SINGLE GLAZING ONLY.

THERE HAVE BEEN MANY OCCASIONS OVER THE YEARS THAT I FOUND IT NECESSARY TO REGISTER COMPLAINTS WITH THE ENVIRONMENTAL HEALTH DEPARTMENT REGARDING EXCESSIVE NOISE FROM THESE PREMISES. MORE RECENTLY (SINCE JUNE 2013) THE PROBLEM HAD BEEN WEEKLY KARAOKE SESSIONS AND OCCASIONAL LIVE BANDS. FULL ADVANTAGE OF THE ENTERTAINMENT LICENSE WAS TAKEN WITH MUSIC FINISHING ON THE STROKE OF MIDNIGHT (SOMETIMES OVER-RUNNING) AND THIS CAUSED MY WIFE AND I LACK OF SLEEP.

FROM THE TIME THE PREMISES RE-OPENED I MADE COMPLAINTS REGARDING NOISE ON 26TH & 27TH JULY, 2ND AUGUST, 30TH AUGUST, 4TH OCTOBER, 24TH DECEMBER AND 27TH DECEMBER 2013. THESE WERE FOLLOWED-UP WITH E-MAILS ON 29TH JULY, 3RD AUGUST, 31ST AUGUST, 7TH OCTOBER AND 7TH JANUARY 2014.

ADDITIONALLY, ON 9TH AUGUST 2013, THE PRINCIPAL ENVIRONMENTAL HEALTH OFFICER, ELAINE JEFFERY, VISITED THE PREMISES AND SPOKE AT LENGTH TO THE MANAGER ABOUT NOISE PREVENTION. SHE MADE A NUMBER OF RECOMMENDATIONS BUT NONE WERE IMPLEMENTED.

I WAS GIVEN TWO "CODE 10" REFERENCES, WHICH WERE 13/05970/NOIS10 AND 13/00205/NOIS10.

ASIDE FROM THE MUSIC, THERE HAVE BEEN FREQUENT LATE NIGHT DISTURBANCES IN THE PAST FROM DRUNKEN, ROWDY BEHAVIOUR FROM PEOPLE GATHERED IN THE SMALL, EXTERIOR SMOKING AREA ADJOINING THE WESTON GROVE ROAD ENTRANCE TO THE PREMISES.

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

THE CURRENT LICENSE ALLOWS FOR LIVE MUSIC TO BE PLAYED UNTIL MIDNIGHT ON THURSDAYS, FRIDAYS AND SATURDAYS. THE PREMISES IS CLOSELY SURROUNDED BY RESIDENTIAL PROPERTIES AND THE LICENSE WAS GRANTED MANY YEARS BEFORE THE NEW CENTENARY QUAY DEVELOPMENT WAS STARTED.

THE PREMISES CLOSED IN JANUARY 2013 BUT RE-OPENED IN JUNE 2013 WITH THE EXISTING LICENSE REMAINING IN PLACE. THE PUBLIC HOUSE CLOSED AGAIN IN JANUARY 2014 AND AS THE BUILDING CURRENTLY STANDS EMPTY, THE OPPORTUNITY SHOULD BE TAKEN TO WITHDRAW THE ENTERTAINMENT LICENSE IN ORDER THAT ANY NEW LANDLORD MAY RE-APPLY, SETTING OUT PROPOSALS FOR NOISE PREVENTION.

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

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If you have made representations before relating to this premises please state what they were and when you made them

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent
(See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

[Redacted Signature]

Date

30/1/14

Capacity

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) BRIAN MICHAEL KNIGHT [Redacted Address]	
Post town SOUTHAMPTON	Post Code SO19 [Redacted]
Telephone number (if any) [Redacted]	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) [Redacted]	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.
6. See separate guidance for responsible authorities' details.

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