

# NOTICE OF MEETING

#### LICENSING SUB-COMMITTEE

# MONDAY, 5 SEPTEMBER 2022 AT 4.00 PM

# COUNCIL CHAMBER - THE GUILDHALL, PORTSMOUTH

Telephone enquiries to Democratic Services 023 9283 4060 Email: Democratic@Portsmouthcc.gov.uk

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

# Information with regard to public access due to Covid precautions

- Following the government announcement 'Living with COVID-19' made on 21 February and
  the end of universal free testing from 1st April, attendees are no longer required to undertake
  an asymptomatic/ lateral flow test within 48 hours of the meeting however we still encourage
  attendees to follow the PH precautions we have followed over the last two years to protect
  themselves and others including vaccination and taking a lateral flow test should they wish.
- We strongly recommend that attendees should be double vaccinated and have received a booster.
- If symptomatic we encourage you not to attend the meeting but to stay at home. Updated government guidance from 1 April advises people with a respiratory infection, a high temperature and who feel unwell, to stay at home and avoid contact with other people, until they feel well enough to resume normal activities and they no longer have a high temperature. From 1 April, anyone with a positive COVID-19 test result is being advised to follow this guidance for five days, which is the period when you are most infectious.
- We encourage all attendees to wear a face covering while moving around crowded areas of the Guildhall.
- Although not a legal requirement, attendees are strongly encouraged to keep a social distance and take opportunities to prevent the spread of infection by following the 'hands, face, space' and 'catch it, kill it, bin it' advice that also protects us from other winter viruses.
   Hand sanitiser is provided at the entrance and throughout the Guildhall. All attendees are encouraged to make use of hand sanitiser on entry to the Guildhall.
- Those not participating in the meeting and wish to view proceedings are encouraged to do so remotely via the livestream link.

(NB This agenda should be retained for future reference with the minutes of this meeting).

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Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: www.portsmouth.gov.uk

<u>Committee Members</u> Councillors Scott Payter-Harris (Chair), Yinka Adeniran, Dave Ashmore, Kimberley Barrett, Stuart Brown, Tom Coles, Jason Fazackarley, Lewis Gosling, Ian Holder, George Madgwick, Leo Madden, Asghar Shah, Benedict Swann, Linda Symes and Daniel Wemyss.

<u>The panel today consists of: Councillors</u> Scott Payter-Harris, Dave Ashmore, Ian Holder and Benedict Swann

The reserve member is Councillor Dave Ashmore.

### Licensing Sub Committee meetings are digitally recorded.

### AGENDA

- 1 Appointment of Chair
- 2 Declarations of Members' Interests
- 3 Licensing Act 2003 Application for grant of a premises licence Barcode, 50 Osborne Road, Southsea, PO5 3LT (Pages 3 42)

#### Purpose.

The purpose of this report is for the committee to consider an application for the grant of a new premises licence pursuant to section 18 of the Licensing Act 2003 (the Act). The matter has been referred to the committee for determination following receipt of relevant representations from Richard Maidment, Public Protection and from three local residents. Further details about the representations received is shown at paragraph 4 of the report.

#### The Licensing Sub Committee is requested to determine the application.

Members of the public are now permitted to use both audio-visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

# Agenda Item 3

REPORT TO: LICENSING SUB-COMMITTEE 5<sup>th</sup> September 2022

REPORT BY: LICENSING MANAGER

REPORT AUTHOR: DEREK STONE

Licensing Act 2003 - Application for grant of a premises licence - Barcode,

50 Osborne Road, Southsea, PO5 3LT

#### 1. PURPOSE OF REPORT

The purpose of this report is for the committee to consider an application for the grant of a new premises licence pursuant to section 18 of the Licensing Act 2003 ("the Act").

The matter has been referred to the committee for determination following receipt of relevant representations from Richard Maidment Public Protection and from three local residents. Further detail about the representations received is shown at paragraph 4 below.

# 2. THE APPLICATION AND PROPOSED OPERATING SCHEDULE

The premises licence application has been submitted by Mr Andrew Aquilina and relates to premises known as Barcode and situated at 50 Osborne Road, Southsea, PO5 3LT.

The following licensable activities have been requested with an extension to 02:00 for all activities on Christmas Eve and New Years Eve.

Proposed Licensable Activity	Days and Times of Operation
Sale by retail of alcohol (Both on and off the premises)	Sunday to Thursday 12:00 until 23:00 Friday and Saturday 12:00 until 00:00
Performance of live music	Sunday to Thursday 12:00 until 23:00 Friday and Saturday 12:00 until 00:00
Playing of recorded music	Sunday to Thursday 12:00 until 23:30 Friday and Saturday 12:00 until 00:30
Late night refreshment	Friday and Saturday 23:00 until 00:00

With the hours of opening and closing being:

Days of the Week	Open	Close
Sunday to Thursday	12:00	23:30
Friday and Saturday	12:00	00:30

The applicant has detailed in the operating schedule the steps intended to support and promote the licensing objectives. These can be found in the redacted application form attached at **appendix A.** 

A plan of the premises is attached at appendix B.

The updated statutory guidance<sup>1</sup> gives general advice about the steps to promote the licensing objectives as follows:

**Paragraph 8.42** "Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks."

**Paragraph 8.43** "Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy."

**Paragraph 8.44** "It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application."

**Paragraph 8.47** "Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises."

## 3. BACKGROUND INFORMATION

The provisions relating to the grant of a premises licence are contained within part 3 of the Licensing Act 2003 and associated statutory regulations.

Public notice has been given by way of press notice, a premises notice and local ward councillors have been notified of the application. There are no germane grounds for the committee to reject the application for non-compliance with the prescribed advertising requirements.

### 4. REPRESENTATIONS BY RESPONSIBLE AUTHORITIES AND OTHER PERSONS

Relevant representations have been received from Richard Maidment Principal Regulatory Services Officer Public Protection, raising concerns that the applicant has not supplied sufficient information to demonstrate how the prevention of public nuisance will be avoided. In addition, due to the age of the building and being attached to adjoining residential properties, there is no clarity around whether sufficient soundproofing could actually be achieved to avoid public nuisance.

<sup>&</sup>lt;sup>1</sup> Revised Statutory Guidance issued by the Home Office

Three local residents have made representations raising concerns that these premises would cause additional noise and anti-social behaviour in this area.

Copies of the redacted representations received are attached at appendix C.

The statutory guidance states:

**Paragraph 9.11** "Responsible authorities under the 2003 Act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so."

Paragraph 9.12 " Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing".

#### 5. POLICY AND STATUTORY CONSIDERATIONS

When determining the application, the committee must have regard to:

- Promotion of the licensing objectives which are;
  - Prevention of crime and disorder
  - Public safety
  - o Prevention of public nuisance
  - o Protection of children from harm
- The Licensing Act 2003;
- The adopted Statement of Licensing Policy;
- Judgments of the High Court, (your legal adviser will give you guidance should this become necessary);
- The current statutory guidance<sup>2</sup> issued by the Home Secretary in accordance with section 182 of the Act;

<sup>&</sup>lt;sup>2</sup> Revised statutory guidance issued by the Home Office

- The representations, including supporting information, presented by all the parties; and
- The human rights of all the parties concerned to ensure both a fair and balanced hearing and to consider any public sector equality duty requiring public bodies to have due regard to the need to:
- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- Advance equality of opportunity between people who share protected characteristic and people who do not share it; and
- Foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are as follows:
- I) age, ii) disability, iii) gender reassignment, iv) pregnancy and maternity v) race this includes ethnic or national origins, colour or nationality, vi) religion or belief this includes lack of belief, vii) sex and viii) sexual orientation.

# **Statement of Licensing Policy**

The Statement of Licensing Policy lays down a general approach to the determination of licensing applications and any such application will be considered on its individual merits. Equally, any person permitted by the Act to make relevant representations to the Committee will have those representations considered on their individual merit.

The Committee should consider the fundamental principles set out in its policy, particularly paragraphs 4.7 and 4.8 which are reproduced below:

- 4.7 Whether or not incidents can be regarded as being "in the vicinity" of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the question will ultimately be decided by the courts. In addressing this matter, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 4.8 Licensing law is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of the overall approach to the management of the evening and night-time economy in town and city centres.

The Committee should also have regard to paragraphs 7.1 to 7.5 in relation to such circumstances where it may be appropriate to consider the imposition of conditions on a premises licence.

# **Statutory Guidance**

The updated statutory guidance issued by the Home Secretary in accordance with section 182 of the Act refers to the consideration of applications for the grant or variation of premises licences in Chapter 9.

Members may wish to consider the following extracts from the statutory guidance when determining this application:

**Paragraph 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".

**Paragraph 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."

**Paragraph 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."

Paragraph 9.44 "Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination."

**Paragraph 10.8** "The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations."

**Paragraph 10.9** "It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives."

Members are reminded about the review provisions contained in chapter 11 of the guidance and, in particular:

**Paragraph 11.1** "The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate."

**Paragraph 11.2** "At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives."

### **Determination of an application**

Where an application to grant a premises licence has been made in accordance with section 17 of the Act and where relevant representations have been made, the licensing authority must hold a hearing to consider them, unless the applicant, each person who has made representations and the licensing authority agree that a hearing is unnecessary.

After having regard to the representations, the Committee may take such steps, if any, as it considers appropriate for the promotion of the licensing objectives which are:

- grant the licence subject to such conditions as are consistent with the operating schedule
  modified to such extent as the authority considers appropriate for the promotion of the
  licensing objectives and any mandatory conditions.
- **exclude** from the licence any of the licensable activities applied for.
- **refuse** to specify a person in the licence as the premises supervisor (if the application relates to the sale of alcohol).
- reject the application.

In discharging its duty in accordance with the above, the Committee may grant a premises licence so that it has effect subject to different conditions in respect of:

- different parts of the premises concerned;
- different licensable activities.

Members are reminded of their obligation to give reasons for any decision(s) reached by further reference to the statutory guidance as follows:

**Paragraph 13.10** "It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority's statement of

policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act."

A copy of the Statement of Licensing Policy, current statutory guidance and the Act has been supplied to each of the Members' Rooms and further copies will be available for reference at the hearing.

#### 6. APPEALS

Schedule 5, part 1, of the Act sets out the appeal provisions in relation to the determination of an application to grant a premises licence.

Where the Licensing Authority rejects (in whole or in part) an application, the applicant may appeal against the decision to the Magistrates' Court.

Should the committee grant (in whole or in part) an application, the applicant may appeal against any decision to modify the conditions of the licence. Equally appeal provisions apply against the exclusion of licensable activities and/or refusal to specify a person as a premises supervisor.

Where a person who made relevant representations in relation to the application contends that:

- a) that the licence ought not to have been granted, or
- b) that, on granting the licence, the Licensing Authority ought to have imposed different or additional conditions or excluded activities and/or the premises supervisor,

he may appeal against the decision.

#### 7. APPENDICES

- **A.** Copy of the redacted application for the grant of a premises licence together with any supporting document(s)
- B. Plan of premises
- **C.** Copies of the redacted relevant representations received

#### THE COMMITTEE IS REQUESTED TO DETERMINE THE APPLICATION

For Licensing Manager
And on behalf of Head of Service



# APPENDIX A

# Application for a premises licence to be granted 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.

(Insert name(s) of applicant)	***************************************
apply for a premises licence under se premises described in Part 1 below (t	ection 17 of the Licensing Act 2003 for the the premises) and I/we are making this ensing authority in accordance with section 12
Postal address of premises or, if none,	ordnance survey map reference or description
50 OSBORNE ROAD SOUTHSEA POS 3 LT	BARCODE

Telephone number at premises (if any)	and the second second
Non-domestic rateable value of premises	£

#### Part 2 - Applicant details

Post town

Please state whether you are applying for a premises licence as appropriate

PORTSMOUTH

Please tick as

POS 3LT

Postcode

a)	an	individual or individuals *	V	please complete section (A)
b)	аp	erson other than an individual *		
	i	as a limited company/limited liability partnership		please complete section (B)
	ii	as a partnership (other than limited liability)		please complete section (B)
	iii	as an unincorporated association or		please complete section (B)
	iv	other (for example a statutory corporation)		please complete section (B)

c)	a recognised club	please complete section (B)
d)	a charity	please complete section (B)
e)	the proprietor of an educational establishment	please complete section (B)
f)	a health service body	please complete section (B)
g)	a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales	please complete section (B)
ga)	a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England	please complete section (B)
h)	the chief officer of police of a police force in England and Wales	please complete section (B)

<sup>\*</sup> If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
- statutory function or
- a function discharged by virtue of Her Majesty's prerogative.

# (A) individual applicants (fill in as applicable)

Mr) L	Mrs	Miss	Ms	Other Title (for example, Rev)	
Surname	A	QUILINA	First na	ames ANDREW	J
Date of birti	1	I am 18 yea	rs old or ove	er Please tick	yes 🗸
Nationality		BRITISH			
Current reside address if different premise address	fferent			Postcode	
Daytime co	ntact t	elephone		700000	
E-mail addı (optional)	ess				
work checki	ng serv	if demonstrating a rig vice), the 'share code 5 for information)	to work work of the provided to	via the Home Offic the applicant by	e online right to that service

Mr	Mrs	Miss	Ms	- 4	er Title example, /)	
Surname			Firs	t names	3	
Date of b	irth		l am 18 yea	irs old	Ple	ase tick yes
Nationali	ty					
Current re address if from prem address	different					
Post town					Postcode	
Daytime o	ontact t	elephone				
E-mail ad (optional)			3	4-2-12	V 20	
work chec	king serv	if demonstrating a r rice), the 'share coo 5 for information)	lgrighte work	to the a	pplicant by	e online right to
propriate	vide nam please venture (	ts ne and registered a give any registere (other than a body rty concerned.	d number.	In the d	ase of a na	ertnerchin or
ner joint i						
ner joint i						

Reg	istered number (where applicable)					
	cription of applicant (for example, partnership, company, uninco ociation etc.)	rporated				
Tele	phone number (if any)					
E-m	ail address (optional)					
Part :	3 Operating Schedule					
Whe	en do you want the premises licence to start?	MM YYYY 1092022				
	If you wish the licence to be valid only for a limited period, when do you want it to end?					
I larg						
SEA	E WISH TO OPEN A BAR ON OSBORNE ROAD, WE RUE 1500 AND ALCOHOL. WE WOULD PROVIDE E PAVEMENT FOR OUR CUSTOMERS.					
If 5,4	PAVEMENT FOR OUR CUSTOMERS.  000 or more people are expected to attend the premises my one time, please state the number expected to attend.	NIA				
If 5,4 at all	EVE FOOD AND ALCOHOL. WE WOULD PROVIDE  AVEMENT FOR OUR CUSTOMERS.  000 or more people are expected to attend the premises	NIA				
If 5, at all What (plea	On or more people are expected to attend the premises my one time, please state the number expected to attend.	NIA				
If 5,4 at all What (pleat	O00 or more people are expected to attend the premises my one time, please state the number expected to attend.  It licensable activities do you intend to carry on from the premise ase see sections 1 and 14 and Schedules 1 and 2 to the Licensia	NIA es?  ng Act 2003)  Please tick all				
If 5,4 at all What (pleat	On or more people are expected to attend the premises my one time, please state the number expected to attend.  It licensable activities do you intend to carry on from the premise ase see sections 1 and 14 and Schedules 1 and 2 to the Licensia vision of regulated entertainment (please read guidance note	NIA es?  ng Act 2003)  Please tick all				
If 5,4 at all What (pleat Pro 2)	PAVEMENT FOR OUR CUSTOMERS.  One of more people are expected to attend the premises my one time, please state the number expected to attend.  It licensable activities do you intend to carry on from the premise ase see sections 1 and 14 and Schedules 1 and 2 to the Licensia vision of regulated entertainment (please read guidance note plays (if ticking yes, fill in box A)	NIA es?  ng Act 2003)  Please tick all				

e)	live music (if ticking yes, fill in box E)	
f)	recorded music (if ticking yes, fill in box F)	
g)	performances of dance (if ticking yes, fill in box G)	
h)	anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)	

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

timing	ard days s (please nce note	read	Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors Outdoors
	-			
Day	Start	Finis h		Both
Mon			Please give further details here (please read)	ad guidance note
Tue				I a
Wed			State any seasonal variations for perform (please read guidance note 5)	ing plays
Thur				
Fri			Non standard timings. Where you intend premises for the performance of plays at to those listed in the column on the left, p	different times
Sat			(please read guidance note 6)	
Sun				

Stand	Films Standard days and timings (please read guidance note 7)		Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors
guida	ince note	7)		Outdoors
Day	Start	Finis h		Both
Mon			Please give further details here (please read)	ad guidance note
Tue				
Wed			State any seasonal variations for the exhibit (please read guidance note 5)	bition of films
Thur				
Fri			Non standard timings. Where you intend to premises for the exhibition of films at different those listed in the column on the left, please	erent times to
Sat			read guidance note 6)	16.5559
Sun		*******		

event Stand timing	Indoor sporting events Standard days and timings (please read guidance note 7)		Please give further details (please read guidance note 4)
Day	Start	Finis h	
Mon			
Tue			State any seasonal variations for indoor sporting events (please read guidance note 5)
Wed	*******		
Thur			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 (please
Frì			read guidance note 6)
Sat			
Sun			

enter	Boxing or wrestling entertainments Standard days and		Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please	Indoors
	gs (please nce note		read guidance note 3)  Outdoors  Outdoors	
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Standa	dard davs and		Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	~
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Thur	12:00	23:00	CHRISTMAS AND NELL YEAR'S ELL UNTIL 02:00	Æ.	
Fri	12:00	00:00	Non standard timings. Where you intend premises for the performance of live mustimes to those listed in the column on the	ic at differe	nt list
Sat	12:00	∞:o∘	(please read guidance note 6)		
Sun	12:.00	23:00			

Recorded music Standard days and timings (please read guidance note 7)		s and e read	Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	~
		Finis		Outdoors	
Day	Start	h		Both	
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Thur	12:00	23:30	CHRISTMAS EVE NYE UN TIL 02:00.		
Fri	12:00	00:30	Non standard timings. Where you intend to premises for the playing of recorded music times to those listed in the column on the l	at different	t iet
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Sun	12:00	23:30			

G

Performances of dance Standard days and			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors
timing	Standard days and timings (please read guidance note 7)		production (production garden	Outdoors
Day	Start	Finis h		Both
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Wed			State any seasonal variations for the perdance (please read guidance note 5)	formance of
Thur				
Fri			Non standard timings. Where you intend premises for the performance of dance a to those listed in the column on the left,	t different times
Sat			(please read guidance note 6)	
Sun				

_	4-1		T	
to th (e), (the Standard	Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)		Please give a description of the type of enter be providing	rtainment you will
Day	Start	Finis h	Will this entertainment take place indoors or outdoors or both – please	Indoors
Mon			tick (please read guidance note 3)	Outdoors
				Both
Tue	••••••		Please give further details here (please read)	ad guidance note
Wed				
Thur	********		State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 5)	
Fri				
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Sun				

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	shment dard days and		Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please	Indoors	
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Mon			Please give further details here (please read)	ad guidance i	note
Tue					
Wed			State any seasonal variations for the proving ht refreshment (please read guidance no CHUSTMAS EV E	vision of late ote 5)	
Thur			NYE UNTIL 02'.00		
Fri	23:50	Ø:00	different times, to those listed in the colu	efreshment a	<u>t</u> eft,
Sat	23:00	<u>ක:ග</u>	please list (please read guidance note 6)		
Sun					

Stand	Supply of alcohol Standard days and timings (please read		Will the supply of alcohol be for consumption – please tick (please read guidance note 8)	On the premises	
guida	ance note	7)	8	Off the premises	
Day	Start	Finis h		Both	V
Mon	12:00	23:00	State any seasonal variations for the supply of a (please read guidance note 5)		<u>)</u>
Tue	12:00	23:00			
Wed	12:00	23:00	-		
Thur	12:00	23:00	Non standard timings. Where you intended premises for the supply of alcohol at different those listed in the column on the left, please	rent times to	2
Fri	12:00	00:00	CHUSTMAS EVE	<u>se list</u> (pleas	е
Sat	12:00	00:00	NYE UNTIL 02:00.		
Sun	12:00	28:00			

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):

Name	ANDREW	AQUILINA	
Date of bir			
Address			
Postcode			
	cence number (if	known)	
Personal lic		,	
Personal lic	cence number (if	if known)	CITY CONVUL

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

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)		u <b>blic</b> and read	State any seasonal variations (please read guidance note 5)
Day	Start	Finis h	2.4. f
Mon	12:00	23:30	
Tue	12:00	23:30	
Wed	12:00	23:30	Non standard timings. Where you intend the premises to
Thur	12:00	23:30	be open to the public at different times from those listed in the column on the left, please list (please read guidance note 6)
Fri	12:00	00:30	CHILISTMAS GVE NYE ONTIL 02'.00
Sat	12:00	co:30	00000
Sun	12:00	23:30	

#### Μ

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

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

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

No supply of alcohol may be made under the premises licence -

- (a) At a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) At a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

# b) The prevention of crime and disorder

- 1. The premises shall have sufficient cameras located within the premises to cover all public areas including outside of the premises covering the entrance and exit. The system will be able to cope with strobe lighting (where used) and all levels of illumination throughout the premises as well as outside areas. CCTV warning signs to be fitted in public places. The CCTV system must be operating at all times whilst the premises are open for licensable activity. All equipment shall have a constant and accurate time and date generation. The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 31 days. Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly and that data is being securely retained. The DPS or premises manager must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, i.e. password protected. There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies immediately to police on request when investigating allegations of offences or criminal activity. Any images recovered must be in a format that can be viewed on readily available equipment without the need for specialist software.
- 2. In the event of technical failure of the CCTV equipment, the premises licence holder/DPS MUST report the failure to the Hampshire Eastern Police Licensing Unit licensing@hampshire.pnn.police.uk within 24 hours, and arrangements made to repair the fault without delay. A competent trained person in the use of and operation of the CCTV must be in attendance at the premises at all times that licensable activities take place and there must be a person present, nominated by the data controller, who is able to fully operate the CCTV system to be able to download at the times of the visit onto a CD/DVD/USB stick any information lawfully requested by Police or Portsmouth City Council authorised officers.

CCTV shall cover the full licensable area.

c) Public safety
) Fublic safety
the facility mulacines
Notices shall be put up near all exits, stating that customers should be respectful
towards our neighbours and leave our premises in a calm, quiet and peaceful manner.
e) The protection of children from harm
1. All staff involved in the sale of alcohol must receive comprehensive training in relation
to the sale of alcohol. No member of staff shall be permitted to sell alcohol until such
times as they have successfully completed this training. Training shall cover:
Sale of alcohol to persons under 18
Challenge 25 and acceptable forms of identification
Signs of Drunkenness
Refusal register and when/how to use The Licensing Objectives
This training shall be documented and records kept on the premises
Police and the Portsmouth Licensing Authority shall have access to an individual's training
records upon request.
2. The premises shall operate a challenge 25 policy. Any persons appearing to those en-
and in colling or supplying alcohol to be under the age of 25 and who is attempting to
buy alcohol will be required to produce satisfactory photographic identification as proof of age. Acceptable ID shall be as per the latest Home Office guidance. Signage of this pol-
icy will be visible to customers
3. A refusals register in paper or digital format shall be kept and maintained at the prem-
ises. The register shall be made available for inspection upon request by an authorised
officer of the Police or Local Authority.
4. Children under the age of 16 must be accompanied by an adult.
5. Children under the age of 18 are not permitted in the building after 7pm on any day.
Checklist:
Please tick to indicate agreemen

Signature		
Date	6-7-2022	
Capacity	GENERAL MANAGER	

For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence
associated with this application (please read guidance note 14)

Post town		Postcode
Telephone	number (if any)	
If you would	prefer us to correspond with y	ou by e-mail, your e-mail address (optional)

#### **Notes for Guidance**

- 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 for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
- 2. 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.

•	I have made or enclosed payment of the fee.
•	I have enclosed the plan of the premises.
•	I have sent copies of this application and the plan to responsible authorities and others where applicable.
•	I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
P	I understand that I must now advertise my application.
D	I understand that if I do not comply with the above requirements my application will be rejected.
	[Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (please read note 15).

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.

It is an offence under Section 24b of the Immigration Act 1971 for a person to work when they know, or have reasonable cause to believe, that they are disqualified from doing so by reason of their immigration status. Those who employ an adult without leave or who is subject to conditions as to employment will be liable to a civil penalty under section 15 of the Immigration, Asylum and Nationality Act 2006 and pursuant to Section 21 of the same act, will be committing an offence where they do so in the knowledge, or with reasonable cause to believe, that the employee is disqualified.

#### Part 4 – Signatures (please read guidance note 11)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 12). If signing on behalf of the applicant, please state in what capacity.

# [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15). Declaration The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15)

- 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.

- o 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.
- Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
- For example the 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.
- For example (but not exclusively), where the activity will occur on additional days during the summer months.
- For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
- 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.
- 8. 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'.
- 9. 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.
- Please list here steps you will take to promote all four licensing objectives together.
- 11. The application form must be signed.
- An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.

- 13. Where there is more than one applicant, each of the applicants or their respective agent must sign the application form.
- 14. This is the address which we shall use to correspond with you about this application.
- 15. Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:
- A licence may not be issued to an individual or an individual in a partnership which is not a limited liability partnership who is resident in the UK who:
  - does not have the right to live and work in the UK, or
  - is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

They do this in one of two ways:

- by providing with this application, copies or scanned copies of the documents which an applicant has provided, to demonstrate their entitlement to work in the UK (which do not need to be certified) as per information published on gov.uk and in guidance.
- by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

# Home Office online right to work checking service.

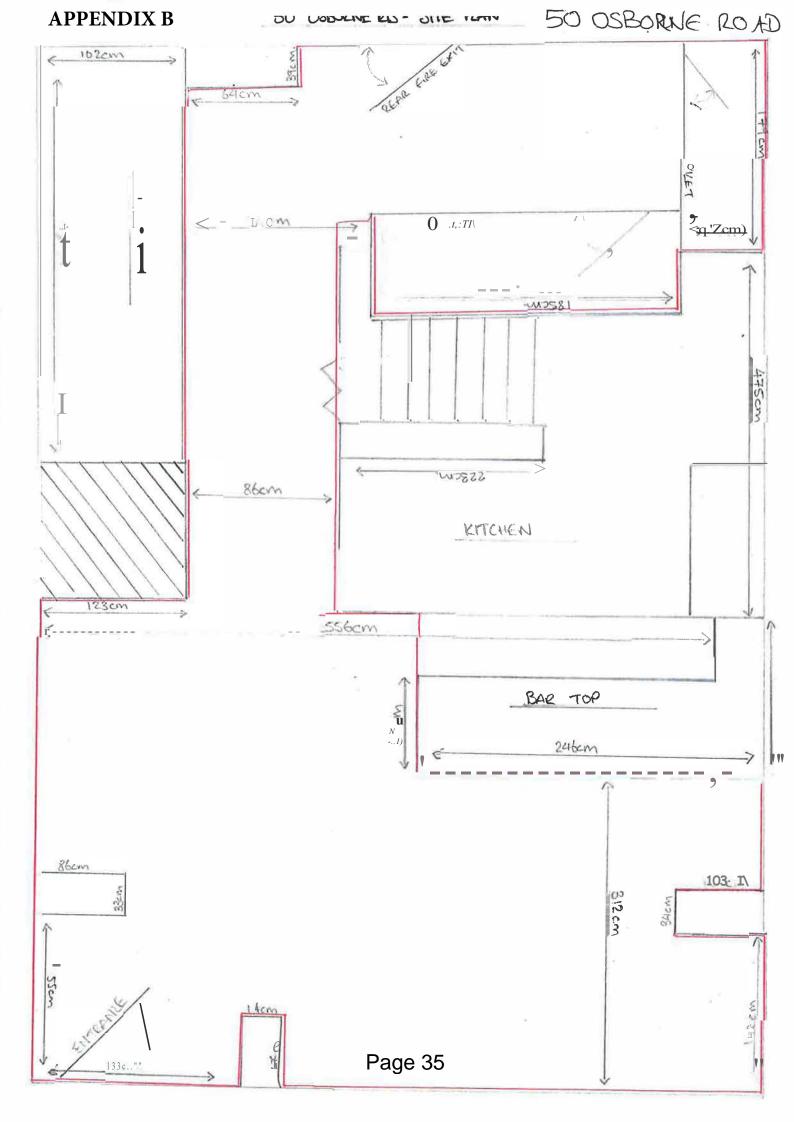
As an alternative to providing a copy of original documents, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their share code (provided to them upon accessing the service at <a href="https://www.gov.uk/prove-right-to-work">https://www.gov.uk/prove-right-to-work</a>) which, along with the applicant's date of birth, will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be shared digitally. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copies of documents as set out above.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.





# **APPENDIX C**

From: Maidment, Richard Sent: 09 August 2022 14:08 To: Licensing Shared Email

Subject: FW: Application for Premises Licence - 50 Osborne Road - 22/02416/LAPREM - URGENT

Further to the above application for a premises licence I note that the application involves the provision of regulated entertainment from live and recorded music until midnight and 00:30hrs respectively and there are residential dwellings located directly above the trading area of the venue.

Guidance issued under section 182 of The Licensing Act states that "applicants are expected to include positive proposals in their application on how they will manage any potential risk. Premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective".

Applicants are expected to provide licensing authorities with sufficient information to determine the extent to which their proposed steps are appropriate and make it clear why the steps they are proposing are appropriate for the premises, however Section M (d) of the submitted application form does not include any measures as to how the applicant proposes to prevent public nuisance other than by placing notices in the entrance reminding customers to be respectful to neighbours. It makes no mention of any specific noise control measures proposed for public entertainment, smoking outside the premises, waste collection / disposal, litter or external lighting etc.

In order to minimise the risk of noise problems arising, extreme caution should be exercised in permitting developments that result in pubs and clubs being structurally attached to noise sensitive properties. Such development should not be permitted without it being clearly demonstrated that acceptable noise levels can be achieved and maintained. As this is not a new build development it is currently not clear whether sufficient sound insulation measures could be implemented to contain the levels of noise likely to be generated by the proposed activities. For this reason I would be reluctant to rely on a conditional permission and would suggest that any application is accompanied by an acoustic assessment and specification of remedial works.

It would also appear that the premises does not currently have the appropriate planning permission for a drinking establishment, it only has conditional permission for a use class E(b) (Business, commercial and services) and it will require a sui generis permission for a drinking establishment.

The current Statement of Licensing Policy states the following:

- 21.1 Planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency.
- 21.2 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Planning Authority.

The planning process decides whether the development is appropriate for the location in terms of public amenity which could include conditions restricting hours and the installation of extensive sound insulation measures. Permission may even be refused as the test for loss

of amenity is less stringent and will occur at levels of pollution below those required to establish nuisance.

I would therefore suggest that to avoid duplication and inefficiency and ensure a consistent approach it makes sense in this case for the applicant to first obtain the relevant planning permission prior to granting a premises licence. Planning will ensure the proposed development is appropriate for the location and the licensing regime could then be used to control the operation, consistent with any conditions applied by the planning consent.

Owing to the premises being directly attached to residential properties I feel there is currently a high risk that the proposed operation is likely to result in public nuisance due to noise from both entertainment and the behaviour of customers within the premises and I do not believe the proposed steps are adequate to prevent public nuisance. For that reason I wish to make representations.

### regards

Richard Maidment
Principal Regulatory Services Officer

Regulatory Services
Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth
PO1 2AL

Tel: 02392 841397

# **APPENDIX C**

From: Robson, Debra
To: Robson, Debra

Subject: FW: Licensing Application 22/02416/LAPREM - 001775104196 | 50 Osborne Road Southsea PO5 3LT

**Date:** 02 August 2022 13:57:04

From: Faulkner, Daniel

**Sent:** 01 August 2022 10:33 **To:** Licensing Shared Email

Subject: Licensing Application 22/02416/LAPREM - 001775104196 | 50 Osborne Road Southsea

PO5 3LT

#### Dear Licencing Manager,

I am writing to you ref. the subject licencing application by Andrew Aquilina *to make representation against* the approval of this Licencing Application:

- There are already many bars and restaurants at the opening entrance of Richmond Terrace and Netley Road, Shenanigans The Greenwich Pub, Rapscallions, The Post etc along with many restaurants Pizza Go Go, Algarve Grill, Spice Merchants, Siam Square etc. etc too.
- The bars restaurants that are at the end of Richmond Terrace and Netley Road constantly cause persistent noise throughout the week but especially at weekends with loud, drunk people walking past my property at all times of day and night, shouting, screaming obscenities, foul mouthed language, vomiting and urinating in doorways.
- Opening yet another bar at the end of Richmond Terrace, Netley Road will only exacerbate this ongoing social nuisance for all the residents in the area.
- This bar also has a rear entrance which, during summer months, remains open therefore, allowing the proposed live music, recorded music, kitchen staff, paying public to project their noise directly into the rear car park and the wider residential area until 0030 in the morning on Friday and Saturday evening.
- How many more bars and restaurants do we need in Osborne Road and Palmerston Road? It is beyond ridiculous now with the anti-social behaviour growing larger and larger especially during the summer months.
- When people leave these premises they will walk down Richmond Terrace and Netley Road at all hours of the night with the ensuing cacophony of noise, expletives, screaming etc.

Considering all of the above, I and my fellow residents in Richmond Terrace/Netley Road object in the strongest possible terms to this licencing application and it should be rejected.

Kind Regards,

**Danny Faulkner** 

5 Richmond Terrace Southsea PO5 3NE



# **APPENDIX C**

# Comments summary

Dear Sir/Madam,

Licensing Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 08/08/2022 7:44 AM from Mr Cameron Parvaresh-Ghajar.

# **Application Summary**

Address:	50 Osborne Road Southsea PO5 3LT	
Proposal:	Premises Licence	
Case Officer:	Ms Debra Robson	

# Click for further information

# **Customer Details**

Name:	Mr Cameron Parvaresh-Ghajar	
Email:		
Address:	7 Richmond Terrace, Southsea PO5 3NE	

# **Comments Details**

Commenter Type:	Neighbour
Stance:	Customer objects to the Licensing Application
Reasons for	

Reasons for comment:

#### Comments:

08/08/2022 7:44 AM As a result of so many bars and restaurants at the entrance to Richmond Terrace and Netley Road from Osborne Road, including The Greenwich Pub, Shenanigans, Rapscallions, The Post, Pizza Go Go, Algarve Grill, Spice Merchants, Siam Square etc. These bars and restaurants are the constant reason for the persistent noise throughout the week with intensified disturbing noise levels at weekends with drunk, disorderly and loud people going pst my property and my neighbours with aggressive shouting, obscenities, vomiting, and urinating in the doorways. At certain times it can become intimidating to the point me and my family feel nervous about going out in our street.

I feel opening another bar at end of Richmond Terrace will make the problem worse for all the residents of Richmond Terrace and Netley Road.

Therefore I strongly object to this licensing application.

Kind regards,

Cameron Parvaresh-Ghajar

7 Richmond Terrace

Southsea PO53NE

Kind regards