

# Licensing Acts Panel



Listening Learning Leading

Report of Head of Housing and Environment

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To: Licensing Acts Panel

DATE: 16 June 2021

## **Application for a premises licence for Ale Van, Bar & Events, 34 Hart Street, Henley-on-Thames, RG9 2AU**

### **Recommendation**

That the panel consider the application for a premises licence and the relevant representations and decide whether to a) grant the licence as applied for, b) grant the licence after modifying any conditions to such extent as the authority considers appropriate for the promotion of the licensing objectives, c) exclude from the scope of the licence any of the licensable activities to which the application relates, d) refuse to specify a person in the licence as the premises supervisor or e) reject the application.

### **Purpose of Report**

- 1 To present the facts and relevant representations received in respect of an application for a premises licence for Ale Van, Bar & Events, 34 Hart Street, Henley-on-Thames, RG9 2AU, to the Licensing Acts Panel in order that it can determine the application under Section 18 of the Licensing Act 2003.

### **Strategic Objectives**

- 2 The relevant strategic objectives are 'Openness and accountability' and 'Improved economic and community wellbeing'.

## Background

- 3.1 The Licensing Act 2003 ('the Act') established a single integrated scheme for licensing premises which are used for the supply of alcohol, regulated entertainment, late night refreshment or permission to carry on some or all of these activities. In the Act these activities are referred to collectively as the 'licensable activities'.
- 3.2 A Licensing Authority must carry out its function under the Licensing Act with a view to promoting the four licensing objectives. The licensing objectives are:
- prevention of crime and disorder
  - public safety
  - prevention of public nuisance
  - protection of children from harm.

In carrying out its functions, the Licensing Authority must also have regard to its statement of licensing policy and any guidance issued by the Secretary of State (section 182 guidance).

- 3.3 Licences will normally be granted by the licensing officer under delegated powers but in the event of relevant representations being received regarding the grant of a premises licence, and where these representations cannot be resolved through any mediation process, the application is referred to the Licensing Acts Panel to be determined.
- 3.4 On 28 April 2021 an application for the grant of a new premises licence was submitted by Ale Van, Bar & Events Ltd for 34 Hart Street, Henley-on-Thames. A copy of the form is attached at **Appendix A**. The application is for the sale of alcohol, recorded music and provision of late night refreshment, as follows:

Licensable Activity	Proposed Days and Times
Sale of alcohol (on & off the premises)	Tuesday - Thursday: 12:00-23:00 Friday - Saturday: 12:00-00:00 Sunday: 12:00-18:00
Recorded music (inside & outside)	Tuesday - Thursday: 12:00-23:00 Friday - Saturday: 12:00-00:00 Sunday: 12:00-18:00
Late night refreshment (inside & outside)	Friday - Saturday 23:00-00:00
Hours premises are open to the public	Tuesday - Thursday: 12:00-23:00 Friday - Saturday: 12:00-00:00 Sunday: 12:00-18:00

- 3.5 It should be noted that the applicant intends to make use of the Live Music Act 2012 exemption in that no licence is required to play live and recorded music in a premises licensed for the sale of alcohol between the hours of 08:00-23:00 where attendance is limited to 500 persons.
- 3.6 A representation has been received from Environmental Protection in respect of this application (**Appendix B**).
- 3.7 The applicant's response to the representation can be found at **Appendix C**.
- 3.8 Following the response from the applicant, Environmental Protection suggested some alterations to the application and some additional conditions, as at **Appendix D**. These have not yet been agreed by the applicant.
- 3.9 No representations have been received from any other persons.
- 3.10 A map showing the location of the premises is attached at **Appendix E**. This map indicates the approximate residential location of any other persons who have made representations as indicated in the above paragraph(s).

## Policy and guidance

- 4.1 The relevant sections of the council's statement of licensing policy are as follows:

3.8 The Licensing Authority deals with the issue of licensing hours on the individual merits of each application and will consider the measures proposed to deal with the potential for nuisance and/or public disorder. However, when issuing a licence with hours extending beyond 11pm, higher standards of control need to be included in operating schedules in order to promote the licensing objectives, especially for premises, which are situated in, or near, residential areas or in areas where crime and/or anti-social behaviour is an issue.

3.11 Conditions attached to various authorisations will be focused on matters which are within the control of licence holders, and will focus primarily on the direct impact of any activities taking place at those premises on those living, working, or otherwise engaged, in the area concerned.

3.13 Conditions shall be appropriate and proportionate to achieve the promotion of the licensing objectives and shall be tailored to suit the circumstances and premises. Conditions will not be attached where adequate legislative control exists.

6.1 Public nuisance is a broad concept, which concerns how the activity of one person (or business) affects the amenity of other persons living and working in the area of the licensed premises, for example, how noise from playing music interferes with another person's right to sleep, or adverse impacts from light or odour.

6.2 The Act requires, and the Licensing Authority expects, applicants to demonstrate within their operating schedule how they intend to prevent public nuisance arising. This will be of particular importance where there are residential properties in the vicinity of the licensed premises.

6.3 When appropriate on application or review the Licensing Authority will consider the adequacy of proposed measures to remove or effectively manage the potential for public nuisance, anti-social behaviour and other crime which may impact on the promotion of the licensing objectives.

6.4 When an operating schedule does not sufficiently address the prevention of public nuisance the Licensing Authority will consider all reasonable conditions suggested by responsible authorities in any relevant representation to prevent public nuisance. In some locations it may be appropriate and proportionate to limit opening hours, the times of licensable activities or the types of licensable activities taking place.

6.11 Noise can come either directly or indirectly from licensed premises. Direct noise, such as that from entertainment activity, will be under the premises' direct control. Indirect noise, such as that from vehicles and customers coming to and from the premises may not be under direct control, but the premises can strongly influence it. Both types of noise will be of more significance in areas with residential accommodation and will usually, but not exclusively, be of greater importance between 11pm and 7am. However it must be noted that noise and disturbance can also cause public nuisance outside these times. The operating schedule should identify the control measures that will be taken to minimise the impact of both types of noise on neighbouring residents and businesses.

6.13 Noise and disturbance from people outside can cause public nuisance even when those people are not behaving badly. The operating schedule should identify the control measures that will be taken to minimise the impact of use of outside areas. This may include noise and disturbance from customers on the premises and customers in outdoor areas such as terraces, beer gardens and smoking areas. It will also include noise, disturbance and obstruction from customers in the vicinity of the premises including customers congregating outside premises to smoke or drink, customers arriving, leaving or queuing outside premises.

6.15 Amendments to the Act have removed the requirement for licensing of a wide range of entertainment between the hours of 8am and 11pm. This does not reduce the risk of noise nuisance occurring. The risk increases when the entertainment takes place in the open air or within a marquee. Steps should be taken to prevent noise and vibration from entertainment causing nuisance. This may include noise from music, human voices and other forms of entertainment whether amplified or not. Consideration should also be given to ensure noise is not audible at sensitive locations such as dwellings, hospitals, hotels and other business premises. Any noise should also not cause unreasonable disturbance to the wider public, such as passers-by and people using public facilities. The Environmental Protection team are responsible for dealing with noise complaints arising from unregulated entertainment.

4.2 The relevant sections of the Secretary of State's guidance issued under section 182 of the Licensing Act 2003 are as follows:

1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

1.5 However, the legislation also supports a number of other key aims and purposes... They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises

1.16 Licensing conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. They should be proportionate, justifiable and be capable of being met.

2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

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...

8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

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.

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.

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.

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided

4.3 Relevant case law is as follows:

East Lindsey District Council v Abu Hanif (t/a Zara's Restaurant) 2016. The significance of the case is that it reaffirms the principle that Responsible Authorities need not wait for the licensing objectives to actually be undermined before objecting to a licence being granted. This case would be most relevant when opposing a grant application.

R (on application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court and Others (2011) EWCA Civ 312 also states how licensing authorities should approach licensing decision making:

"They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact."

Sourced from: <https://www.gov.uk/government/publications/alcohol-licensing-using-case-law/alcohol-licensing-using-case-law>

## Options

- 5.1 In determining the application the authority must give weight to:
- representations received from responsible authorities
  - relevant representations received from other persons
  - the Secretary of State's guidance issued under Section 182 of the Licensing Act 2003
  - the council's statement of licensing policy and
  - the steps appropriate to promote the licensing objectives
- 5.2 In view of the above, the panel is requested to consider the application for a premises licence and decide whether to:
- (a) grant the licence as applied for
  - (b) grant the licence after modifying any conditions to such extent as the authority considers appropriate for the promotion of the licensing objectives
  - (c) exclude from the scope of the licence any of the licensable activities to which the application relates
  - (d) refuse to specify a person in the licence as the premises supervisor, and/or
  - (e) reject the application.

## Financial Implications

- 6 Should the applicant or any other person wish to appeal against a decision of the council, they may do so to the magistrates' court. The council would incur costs should this occur, although the court may decide to award costs if the council's decision was upheld.

## Legal Implications

- 7.1 The Human Rights Act 1998 requires public bodies to ensure everything they do is compatible with Convention Rights and makes it unlawful for a public authority to act incompatibly with those rights. When determining whether to grant the application the panel will be aware of human rights considerations, specifically Part 1, Article 6, the right to a fair trial, Part 2 and Article 8 the right to respect for private and family life for those making representations.
- 7.2 The hearing of all applications is subject to the principles of natural justice.
- 7.3 Section 17 of the Crime and Disorder Act 1998 states, 'without prejudice to any other obligation imposed on it, it shall be the duty of each authority to exercise its various functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area'.

- 7.4 Under Schedule 5, Part 1 of the Licensing Act 2003, any person aggrieved by the decision in respect of the application may appeal to a Magistrates' Court within 21 days of the date of the decision.

## **Conclusion**

- 8 This report provides information submitted by the applicant and responsible authorities. The panel should determine this application with a view to promoting the four licensing objectives. It must, having had regard to all the relevant representations and the evidence it hears, determine the application using the options outlined in section 5 of this report.

## **Background Papers**

- Appendix A – Application form and plan (relevant sections only)
- Appendix B – Representation from Environmental Protection
- Appendix C – Response from agent representing the applicant
- Appendix D – Proposed amendments and additional conditions from Environmental Protection
- Appendix E – GIS map of the location of the premises

**Appendix A – Application form and plan**

**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.

I/We ALE VAN, BAR & EVENTS LIMITED

*(Insert name(s) of applicant)*

**apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003**

**Part 1 – Premises details**

Postal address of premises or, if none, ordnance survey map reference or description			
34 Hart Street, Henley on Thames, Oxfordshire, RG9 2AU			
<b>Post town</b>	Henley on Thames	<b>Postcode</b>	RG9 2AU
Telephone number at premises (if any)			
Non-domestic rateable value of premises		£19,000	

**Part 2 – Applicant details**

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

- a) an individual or individuals \*  please complete section (A)
- b) a person 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)

\* 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 <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over <input type="checkbox"/> Please tick yes			
<b>Nationality</b>					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 15 for information)					

**SECOND INDIVIDUAL APPLICANT** (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over <input type="checkbox"/>		Please tick yes	
<b>Nationality</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service: (please see note 15 for information)					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**(B) OTHER APPLICANTS**

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

<b>Name</b> ALE VAN, BAR & EVENTS LIMITED
<b>Address</b> 30a Upper High Street, Thame, Oxfordshire, OX9 3EX
<b>Registered number (where applicable)</b> 11315599
<b>Description of applicant (for example, partnership, company, unincorporated association etc.)</b> Private limited company
<b>Telephone number (if any)</b>
<b>E-mail address (optional)</b>

**Part 3 Operating Schedule**

When do you want the premises licence to start?

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

**As soon as possible**

If you wish the licence to be valid only for a limited period, when do you want it to end?

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

Please give a general description of the premises (please read guidance note 1)  
 Small craft beer and artisanal spirit bar operating as a café and off-licence during the day, selling a range of craft beer, real ale, small batch cider and high-end spirits.

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

What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- 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**

**F**

Recorded music Standard days and timings (please read guidance note 7)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish			
Mon	-	-	<b><u>Please give further details here</u></b> (please read guidance note 4)  The majority of performances of recorded music shall be exempt from licensing under the Live Music Act 2012.		
	-	-			
Tue	12:00		<b><u>State any seasonal variations for the playing of recorded music</u></b> (please read guidance note 5)		
		23:00			
Wed	12:00		<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 6)		
		00:00			
Thur	12:00				
		23:00			
Fri	12:00				
		00:00			
Sat	12:00				
		00:00			
Sun	12:00				
		18:00			

I

<b>Late night refreshment</b> Standard days and timings (please read guidance note 7)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input checked="" type="checkbox"/>			
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 4)					
Mon								
Tue								
Wed						<b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guidance note 5)		
Thur								
Fri	23:00	00:00				<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 6)		
Sat	23:00	00:00						
Sun								

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5)		
Mon	-	-			
	-	-			
Tue	12:00				
		23:00			
Wed	12:00				
		23:00			
Thur	12:00				
		23:00			
Fri	12:00		<b>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</b> (please read guidance note 6)		
		00:00			
Sat	12:00				
		00:00			
Sun	12:00				
		18:00			

**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):**

<b>Name</b> James Albert Heath Cummings
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**K**

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

None

**L**

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)			<b>State any seasonal variations</b> (please read guidance note 5)
Day	Start	Finish	
Mon	-	-	<p><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 6)</p>
	-	-	
Tue	12:00		
		23:00	
Wed	12:00		
		23:00	
Thur	12:00		
		23:00	
Fri	12:00		
		00:00	
Sat	12:00		
		00:00	
Sun	12:00		
		18:00	

**M**

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 10)**

1. The Premises Licence Holder shall ensure that all staff employed at the premises whose duties include the sale or supply of alcohol shall undertake and complete a relevant programme of training prior to them being authorised to sell or supply alcohol. Such training shall consist of providing staff with an understanding of:

- The need to ensure the responsible sale and supply of alcohol
- The need to refuse the sale and supply of alcohol to persons who are intoxicated or underage
- The need to seek credible age verification from persons seeking to be sold or supplied alcohol who may appear under the age of 18 years old

2. The training provided through the SWERCOTS NPOANS, the BII Responsible Alcohol Retailing Course, the Certificate for Personal Licence holders or any other course agreed with the Licensing Authority will be deemed to satisfy these requirements  
Records of the training programme shall be maintained and made available to Authorised Officers upon request.

The Premises Licence holder shall provide a “refresher” training session to all relevant staff members as and when deemed necessary on a case by case evaluation, but as a minimum requirement the refresher training session shall be provided to all staff on at least one occasion every six months.

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

3. Any incident at the premises which impacts any of the four licensing objectives shall be recorded in a register kept at the premises and shall contain the following information:

- a) time and date
- b) exact location
- c) nature of incident
- d) name of staff members or door supervisors involved
- e) name of customers involved (where known)
- f) action taken as a result of the incident (if applicable)
- g) name of member of staff recording the incident.

This record must be retained at the premises for a period of not less than six months (except where removed for the purpose of photocopying) and be available on request by any authorised officer of the council or Thames Valley Police.

4. A refusal register (written or electronic) shall be maintained at the premises (except where removed for the purpose of photocopying) to record sales of age restricted products that have been refused. The register is to be made available upon request by Thames Valley Police and Licensing Officers. The register should include details of the time, date, member of staff refusing the sale, reason for refusal (for example intoxication or underage) and a brief description of the person refused.

5. When the premises is open for trade beyond 23:00 hours, the premises licence holder or any other responsible member of staff will carry out and implement a written risk assessment regarding the need (if at all) for SIA licenced door supervisors. This will be for day to day standard operations as well as for any special one off events over and above that of normal trade. The risk assessment will be made readily available to the police upon

request and where subsequent issues or concerns related to the security risk assessment are brought to the premises licence holder's attention by the police, the premises licence holder will make amendments as appropriate.

6. Where the premises does employ SIA door staff ;

- a) there will be no fewer than 2 on duty and further door staff employed at a ratio of 1:100 customers.
- b) All door staff will wear at all times whilst on duty high visibility fluorescent yellow coats/tabards or armbands to clearly identify them as working that role.
- c) Any items seized by security staff employed at the premises shall be recorded in a log book
- d) The name, SIA number, start and finish time of anyone employed in a security role for that day shall be recorded in a logbook.
- e) Any use of force by SIA registered staff in the effective management of the premises or in ejecting persons from the premises (to include date, time, member of staff involved, reason for force as well as a brief physical description of the person refused) shall be recorded in a logbook.

**c) Public safety**

All matters of public safety are adequately covered by the provisions of the Health and Safety at Work etc Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.

**d) The prevention of public nuisance**

7. Only sealed vessels of alcohol shall be sold to customers who intend to take that alcohol off the premises. Customers who do not wish to finish a bottle of alcohol that has been purchased and unsealed whilst being consumed may take this away from the premises, but the premises will have a means of either decanting this into a sealed container/or closing the existing vessel or provide the customer with an alternative plastic vessel for the customer to transport away from the venue.

Staff shall request that customers do not take any glasses or open bottles from the premises. Signage shall be displayed at the main exit to inform customers of this.

8. No person shall be admitted to the premises less than 30 minutes before latest time authorised for a licensable activity.

9. Prominent, clear notices shall be displayed at all public exit points to advise customers to respect the needs of the local community and of acceptable behaviour in public spaces.

10. The Premises Licence Holder or designated premises supervisor shall ensure that fully functioning CCTV cameras are installed at the premises. CCTV cameras shall be kept operational at all times the premises is open to members of the public for licensable activities. At least 1 member of staff shall be on site at all times the premises is open to members of the public who is able to assist police in viewing CCTV footage.

11. CCTV recordings in a playable format shall be supplied by the premises to the police for collection within 24 hours of request, except where the premises is closed, in which case such recordings shall be supplied within 48 hours, subject to data protection laws. CCTV recordings shall be retained for a period no less than 21 days.

e) The protection of children from harm

12. The 'Challenge 25' scheme will be adopted in compliance with the age verification condition. Customers who appear to be under 25 years of age will be required to prove their age when purchasing alcohol. Suitable forms of identification will be a passport, 'pass' card or other identification recognised by the licensing authority in its statement of licensing policy.

**Checklist:**

**Please tick to indicate agreement**

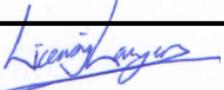
- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
- I understand that I must now advertise my application.
- 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)

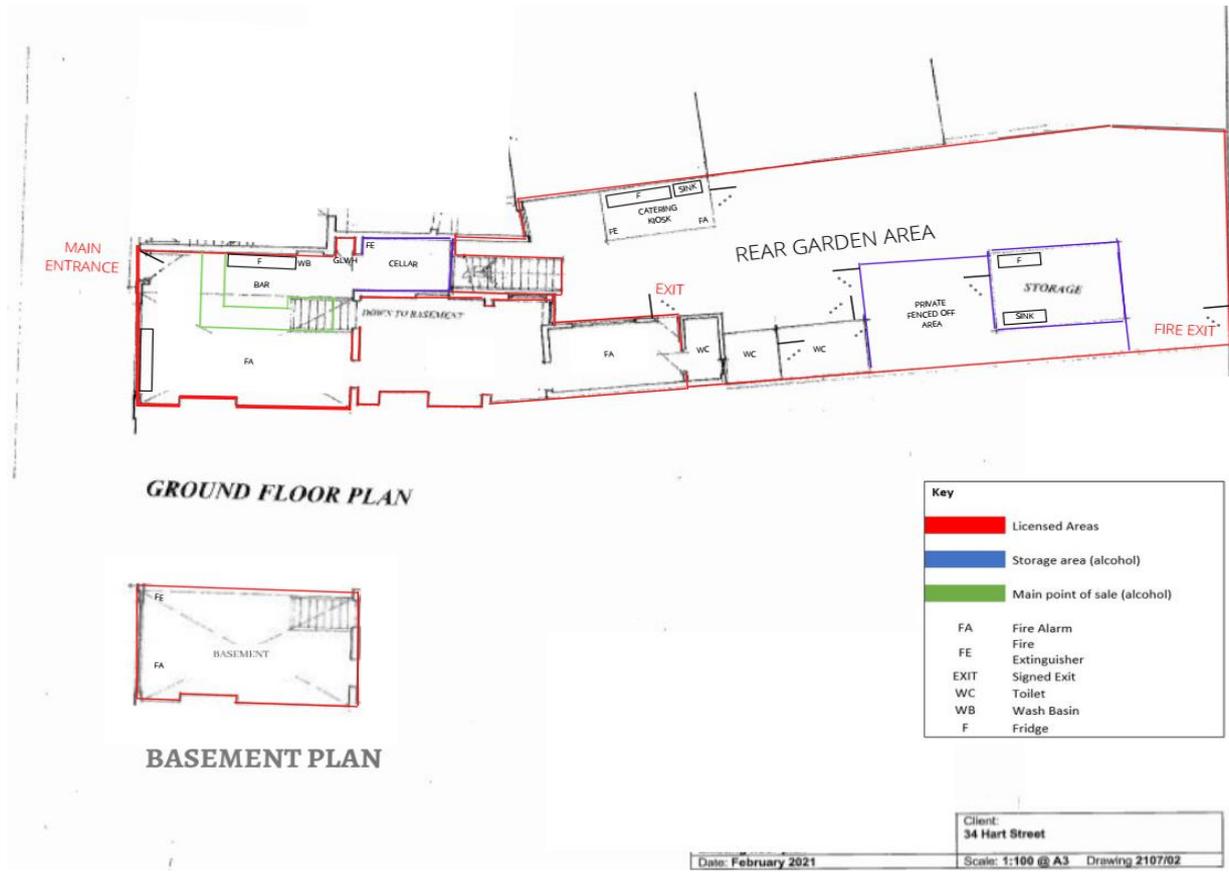
Signature of applicant or applicant’s solicitor or other duly authorised agent (see guidance note 12). If signing on behalf of the applicant, please state in what capacity.

<b>Declaration</b>	<ul style="list-style-type: none"> <li>[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).</li> <li>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)</li> </ul>
Signature	
Date	27-4-2021
Capacity	Solicitors and agents for the applicant

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)			
<b>Licensing Lawyers</b> <b>The Old Counting House</b> <b>82e High Street</b>			
Post town	<b>Wallingford</b>	Postcode	<b>OX10 OBS</b>
Telephone number (if any)	<b>08445561193</b>		
If you would prefer us to correspond with you by e-mail, your e-mail address (optional) <b>applications@licensinglawyers.co.uk</b>			



**Appendix B – Representation from Environmental Protection**

**From:** Morgan, Martin <Martin.Morgan@southandvale.gov.uk>  
**Sent:** 25 May 2021 12:23  
**To:** applications@licensinglawyers.co.uk  
**Cc:** Fisher, Kate <kate.fisher@southandvale.gov.uk>  
**Subject:** 34 Hart Street, Henley on Thames

Hello,

This is the consultation response I have sent to my colleagues in the licensing team regarding your recent premises licence application. If there are any questions or queries please do not hesitate to contact me.

*“Thank you for consulting with this service. I have reviewed the information supplied and have serious concerns about noise from the premises having an adverse impact on the residents of the many residential properties both to the rear of 34 Hart Street and immediately adjacent.*

*We have had many historic noise complaints relating to the various bars along Hart Street which are further from the residential properties than the proposed licensed area. The indoor space is quite limited, and it would be reasonable to expect that many of the customers would be outside and therefore noise would be difficult to control. Further to this, given that the only way to access the toilets in this premises is via the outside, I don't believe that patron noise could be easily or effectively controlled to a level that wouldn't impact local residents. Noise from patrons using the outside area is likely to be especially noticeable at night when noise levels outside are lower.*

*In addition, the applicant has applied for recorded music outside until 23:00 Monday – Thursdays and 00:00 on Fridays and Saturdays and would be permitted to play live and/or recorded music inside and outside until 23:00 under the Live Music Act given the proposed licensed area. I am concerned that music noise from live and/or recorded music outside is likely to have a significant adverse impact on local residents given the close proximity of noise sensitive neighbouring residents to the premises.*

*The applicant has not demonstrated how they will adequately control noise from music or patrons when using the outside area. Furthermore, no details have been provided in respect of any odour and/or noise control in respect of proposed outdoor kitchen providing the late-night refreshment. Therefore, I would like to object to this licensing application.”*

Regards

Martin Morgan  
Environmental Health Officer  
Environmental Protection  
South Oxfordshire District Council

**Appendix C - Response from agent representing the applicant**

**From:** Luke Williams <lw@licensinglawyers.co.uk>  
**Sent:** 25 May 2021 15:15  
**To:** Morgan, Martin <Martin.Morgan@southandvale.gov.uk>  
**Subject:** Re: 34 Hart Street, Henley on Thames

Good Afternoon,

Many thanks for your email which has been forwarded on to me.

I have discussed your representation with our clients and they are eager to co-operate with you to ensure the promotion of the licensing objectives.

The venue itself is of limited capacity and the applicants have voluntarily reduced the number of tables and chairs in the outside area to just 6. By comparison the Hart Street Tavern next door to the premises currently has 10 with many more groups gathering stood up.. The nature of the premises as a more up-market establishment, rather than a high volume vertical drinking premises would, in our view, suggest that the risk of excessive noise or anti-social behaviour would be far less than when compared to a conventional pub and this would also seem to be supported with case law, such as in *Brewdog Bars Limited v Leeds City Council*.

Whilst of course it is true that there are residential properties nearby we understand that no residents have as of yet opposed the application and the 2 properties either side of the premises we are advised are in fact businesses trading as B&Bs, rather than bona fide homes. I also note that in your representation you refer to the premises applying for recorded music outside "*Monday-Thursday*" and hosting live music by virtue of the Live Music Act 2012. In fact the premises will be closed each Monday and I am advised that our client has no intention of having live music performed outside, not least because of the extremely limited space available. In respect of the toilets I can confirm that only the mens is accessible from the outside, with the woman's being entered from indoors. With regards to the catering kiosk, it is envisaged that this will only be used on special occasions and on a small scale. It is not anticipated that the odour will be so significantly potent as to risk undermining the licensing objectives.

The application itself is based on other, similar premises that we have worked with throughout the country and cognisance has been taken of SODC's statement on licensing policy, the Secretary of State's Guidance and the Institute of Licensing's guide to model conditions. It was in particular noted that the proposed conditions are far more rigorous than the conditions which feature on almost all the licences for other premises in the area, even those with far larger capacities and which might be considered HVVD premises. Nevertheless we would invite you to make any proposals for conditions that you feel would address your concerns and perhaps avoid the need for a licensing hearing. I can also advise that our client would be happy to agree to a condition preventing the performance of live music in the outdoor area, which hopefully will go some way in addressing our concerns about noise emitting from this area.

I hope to hear from you soon.

Kind regards  
**Luke Williams**

**Appendix D - Proposed amendments and additional conditions from Environmental Protection**

**From:** Morgan, Martin <Martin.Morgan@southandvale.gov.uk>  
**Sent:** 27 May 2021 14:02  
**To:** Luke Williams <lw@licensinglawyers.co.uk>  
**Cc:** Fisher, Kate <kate.fisher@southandvale.gov.uk>  
**Subject:** RE: 34 Hart Street, Henley on Thames

Hello Luke,

Further to my email yesterday and telephone call today, I think my concerns can be largely addressed with a few alterations to the application and a couple of conditions. These are as follows:

- Outside recorded music be removed from the application, indoor recorded music to remain as applied for.
- The Red line on the application covers the whole garden. Can this be restricted to the end of the proposed kitchen unit to prevent recorded music being played under the Live Music Act?

I would like to propose the following conditions:

- All outside areas shall be closed to customers after 22:00 with the exception of the external toilet area. This area shall be monitored by the DPS or nominated staff to ensure noise is kept to a minimum so as not to cause nuisance to residents.
- No speakers or amplification equipment shall be provided in external areas of the premises.
- The management of these premises shall ensure that no noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to undue disturbance, amounting to a nuisance, to local residents or businesses.

You have also specified that you would agree to a condition which states:

- No live music will be played inside or outside the premises.

I hope this is going in a positive direction from your point of view.

Regards

Martin Morgan  
Environmental Health Officer

Appendix E - GIS map of the location of the premises

