



**HASTINGS POLICE STATION
EAST SUSSEX DIVISION**

Your Ref: Our Ref: ESX/LIC/CI Date: 25th October 2012.
Contact Name: C/I H. Keating Tel. Extension: 60221 Direct Dial No: 01424 456171

Dear Mr Brown

**SUSSEX POLICE REPRESENTATION AGAINST THE APPLICATION FOR THE VARIATION
OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003**

Flames Grill 19 Havelock Road Hastings East Sussex. TN34 1BP.

Sussex Police wish to make representation against the application for the variation of a premises licence submitted by Mr. Caglar Kanik on the 27th September 2012, relating to Flames Grill 19 Havelock Road Hastings East Sussex. TN34 1BP.

The basis for the opposition is that the grant of a variation for the premises licence for these premises will not promote the licensing objectives, particularly the prevention of crime and disorder and the prevention of public nuisance but instead, will give rise to potential negative cumulative impact via an increase in public nuisance and crime and disorder.

The standard hours the premises are at present open to the public are:-

Monday - Wednesday 17:00hrs - 02:00hrs
Thursday - Saturday 17:00hrs - 04:00hrs
Sunday 17:00hrs - 02:00Hrs. (Sunday preceding BH Monday until 03:00hrs)
There are no seasonal or special event variations to these times.

This venue has a premises licence authorising the following licensable activities:-
Provision of Late Night Refreshment.

Monday - Wednesday 23:00hrs - 02:00hrs
Thursday - Saturday 23:00hrs - 04:00hrs
Sunday 23:00hrs - 02:00Hrs. (Sunday preceding BH Monday until 03:00hrs).
There are no seasonal or special event variations to these times.

The application for the variation of the premises licence, made under Section 34 of the Licensing Act 2003, is for the licensable activity of the provision of late night refreshment. Times requested for the licensable activity relating to this application are:-

Provision of Late Night Refreshment.

Monday - Wednesday 23:00hrs - 02:00hrs
Thursday - Saturday 23:00hrs - 05:00hrs

Mr. R. Brown
Licensing Manager
Environment and Safety Directorate
Aquila House
Breeds Place
Hastings
East Sussex.
TN34 3UY.



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Sunday 23:00hrs - 02:00Hrs. (Sunday preceding BH Monday until 05:00hrs).
The seasonal or special event variations to these times being:-
If Christmas Eve or New Years Eve fall on a Monday/Tuesday/Wednesday, to extend opening times to 05:00hrs.

Hours premises are open to the public.

Monday - Wednesday 17:00hrs - 02:00hrs

Thursday - Saturday 17:00hrs - 05:00hrs

Sunday 17:00hrs - 02:00Hrs. (Sunday preceding BH Monday until 05:00hrs).

The seasonal or special event variations to these times being:-

If Christmas Eve or New Years Eve fall on a Monday/Tuesday/Wednesday, to extend opening times to 05:00hrs

Within Section P of the application Mr. Kanik has made no mention of the additional steps to be taken to promote the four licensing objectives, directing the responsible authorities to a single page accompanying document.

The concentration of licensed premises within a small area of the town causes problems of crime and disorder and public nuisance. In consequence of this, following extensive consultation in 2007, the Licensing Authority in January 2008 believed it was both appropriate and necessary to introduce the Special Saturation (Cumulative Impact) Policy. The policy was reviewed in 2009 when small amendments were made. A further review took place in January 2011 resulting in the three areas being retained with no additional modifications.

Paragraph 13.29 of the Secretary of State's Guidance to the Licensing Act 2003, amended in October 2012 provides,

"The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. Applicants should give consideration to potential cumulative impact issues when setting out the steps they will take to promote the licensing objectives in their application".

This principle is reflected in the Hastings Borough Council Special Saturation (Cumulative Impact) Policy contained within the Hastings Borough Council Licensing Policy. These premises are situated within Area 1 of the Special Saturation (Cumulative Impact) Policy in which there is a presumption that any new premises licence or variation will be refused. This policy was introduced and reviewed because of the pressure created by the density of licensed premises in the area of the town centre. Hastings Borough Council Licensing Policy says,

"This policy relates to applications for the grant and/or variation of premise licences, club premises certificates or the issue of provisional statements. Each application will be considered on its own merit..... Where relevant representations are received in relation to applications for the grant of a new premises licence, club premises certificate or provisional statement; there will be a presumption against the grant of such licence or certificate unless the applicant can rebut the presumption that the granting of such a licence or certificate would undermine the licensing objectives."



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Paragraph 8.34 of the Secretary of State's Guidance to the Licensing Act 2003, amended in October 2012 provides, *'In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.'*

Paragraph 8.36 of the guidance states *'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.'*

Contrary to the Secretary of State's Guidance, the applicant has failed to demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing Objectives. Within the accompanying document Mr. Kanik recognises that the premises are within the Special Saturation (Cumulative Impact) Policy area but there is nothing in the application or the operating schedule either rebuts the presumption of refusal contained within Sect 1.11 of the Hastings Borough Council's Licensing Policy, or provides any reason for the Licensing Authority to depart from its special policy.

These premises have directly contributed to the crime & disorder in the area, as evidenced by there being eleven incidents during the period January 2011 to October 2012. A schedule of these incidents is attached.

Flames Grill is opposite the taxi rank meaning that its operation has a significant impact on the dispersal of patrons from the night-time economy. The taxi rank is the main one for the centre of Hastings and attracts customers from the many licensed premises in the town. The taxi rank is such a 'hotspot' that it requires taxi marshals to supervise the queue. Customers arrive at the end of the evening, having completed their consumption of alcohol. Havelock Road was the location of the night bus service that operated on Saturday nights until 0400hrs on the Sunday morning, but this has now ceased. The presence of this food and drink outlet directly opposite the transport infrastructure means that customers remain in the area longer either queuing for service or consuming their purchase. A later terminal hour would encourage customers to remain in the area beyond the terminal time for the transport systems and the police patrols. This will inevitably impact upon the licensing objectives

The previous Premises Licence Holder, Mr. Naki Kanik, father of the current Premises Licence Holder, applied to vary the premises licence in October 2009. The application to vary the licensable hours for late night refreshment, Monday - Wednesday 2300hrs - 0300hrs, Thursday - Saturday 2300hrs - 0500hrs and Sunday 2300hrs - 0300hrs. A Licensing Sub Committee Hearing was held in December 2009, after representations were submitted by Sussex Police and the Environmental Health Department. The members of the committee refused the application. The applicant appealed the decision and with the agreement of all parties the issue was dealt with by way of a Consent Order, in December 2010, with the following decision. The licensable hours for late night refreshment, Monday - Wednesday 2300hrs - 0200hrs, Thursday - Saturday 2300hrs - 0400hrs and Sunday 2300hrs - 0200hrs. The Consent Order also included a condition for a member of SIA door staff to be present during specific hours.



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The repeated submission of applications to vary the premises licence from premises licence holders will cause an 'incremental erosion' of the Special Saturation (Cumulative Impact) Policy.

Sussex Police contend that the applicant has failed to demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives and therefore invite the Licensing Authority to refuse the application.

Yours sincerely,

Chief Inspector H. Keating
District Commander.
Hastings.

Incidents at Flames Grill Havelock Road Hastings between January 2011 and October 2012.

Day & Date	Time	Incident Details.	No.
Saturday 22 nd January '11	03:46hrs	The member of the SIA doorstaff reported a disturbance at the premises. Two males entered the premises and were abusive to a female member of staff. Both males were ejected by SIA security staff and one male fell to the ground causing injury to his nose. Witnesses and the CCTV confirmed details of the incident and there was no further police action.	1.
Sunday 27 th March '11	03:35hrs.	Police officers attended the premises concerning a report of a disturbance taking place there. The male involved had also been causing problems at The Brass Monkey and due to his demeanour the taxi drivers refused to take the male. The police officers offered to take the male home but in the back of the van he started to bang his head against the side of the van. A police officer got into the van in order to prevent the male causing injury to himself and the male punched the officer to the chest was therefore arrested for assaulting a police officer. It was ascertained that the male was autistic and suffered from asperger syndrome. The male was charged for assaulting a police officer.	2.
Saturday 9 th April '11	03:30hrs.	A male was involved in a disturbance at the premises alleging he was 'short changed', but CCTV showed that the allegation was incorrect. The male who was clearly drunk was moved away from the area in order to diffuse the situation. The male started to direct his abuse at the SIA door person, of Asian appearance, who had ejected him. The male was initially arrested for being drunk and disorderly but as a result of the racial comments at the premises, which he continued with in the custody area he was additionally arrested for racially aggravated Sect. 5. The male was issued a Final Warning for the offence of racially/religiously aggravated harassment.	3.
Monday 16 th May '11	01:57hrs	Staff reporting two drunk customers who were shouting and swearing at them and were refusing to leave. The drunk female had alleged that the staff had taken her bag, which was found on the back of her chair. Both received words of advice and were required to leave. There was no further police action taken.	4.
Saturday 2 nd July '11	03:35hrs	Police officers witnessed two females being ejected from the premises who continued to fight each other in the street. Both were seen to punch and pull the hair of the other. As the police officers attempted to separate the two females they continued in their attempt to fight. Both were arrested for affray and one was additionally arrested for possession of a Class A drug - Cocaine. One of the females was issued a final warning with regard to Sect. 5 of the Public Order Act 1986. The other female was cautioned for Sect. 5 of the Public Order Act 1986 and possession of a Class A controlled drug - cocaine.	5.

Friday 9 th September '11	00:30hrs	A female, who was clearly drunk, had been causing a disturbance within the premises. The female refused to leave the area and was therefore arrested for being drunk and disorderly for which she was later charged.	6.
Sunday 27 th November '11	02:02hrs	The male victim and a friend were waiting in a queue in order to use the toilets. The male suspect has pushed into the queue ahead of the victim and the victim asked the suspect to move to the back of the queue a number of times. There was a verbal altercation between the two after which the suspect turns and headbutts the victim once to the face. The member of SIA doorstaff has the attended the toilets and found the victim with a fresh injury to the face. The suspect alleged that he was head butted first, although the member of door staff could see no injury. The victim was conveyed to the Conquest Hospital where it was found that he had sustained an orbital fracture to the eye socket. The suspect, who was on the list of persons banned by Barwatch, left prior to police attendance. The suspect was later arrested and charged with wound / cause grievous bodily harm with intent.	7.
Friday 10 th February '12	03:27hrs	Sussex Police received a report relating to a fight at the premises. Police officers attended to find a minor physical altercation, pushing and shoving, taking place between two groups. Those involved were requested to leave the area, with the main aggressors being issued Sect. 27 notices.	8.
Sunday 24 th June '12	04:12hrs	Police were alerted to a fight outside the premises. On arrival 2 males where found inside Flames with clear injuries to their heads. The victim had a large cut to his left eyebrow which was bleeding heavily, there was large swelling to his eye which was instantly bruised. Aggrieved was spoken with and was anti Police not wishing to give any details and walking away from officers, he was detained on Sus Affray as no-one was making any allegations. CCTV was checked and shows the aggrieved going into the premises with another male. Both are at the counter and appear to have an altercation with a group that are in the corner which is out of sight of CCTV. The victim goes over and is then seen to receive a clear blow as he is thrown backwards off his feet. He walks away from the group and rejoins his friend at the counter. The victim will not leave it at this and has to be spoken to by security staff. As security's back is turned the victim walks back to the group and a large fight starts between the victim, his friend and the group. CCTV does not show enough for identification purposes. The victim has sustained bruising to his left eye which was heavily swollen and closed, swollen nose, large lump to his left temple he was complaining of being unable to see from his eye. His friend sustained a large open cut to his left eye which was bleeding heavily, his left cheek was swollen and instantly bruised, he declined medical treatment. Neither of the victims were prepared to support a police investigation. They were able to provide details of the persons that had assaulted them and would not be able to recognise them again. CCTV was not suitable for identification purposes..	9.
Sunday 19 th August '12	03:56hrs	A male appears to have had an altercation with the door staff after being refused entry. to the premises. Police officers attended and male was requested to leave the area. No further police action was taken.	10.
Sunday 14 th October '12	02:20hrs	A male who was drunk and disorderly within the premises, has refused to leave when requested by both staff and police officers. The male became abusive and aggressive and was arrested for being drunk and disorderly in a public place. The male was charged for being drunk and disorderly in a public place.	11.