

Brighton & Hove City Council

For general release

Meeting: Licensing Sub-Committee

Date: 21st September 2005 at 14:00hrs Hove Town Hall

Report of: Assistant Director – Public Safety

Subject: Application for a variation under transitional arrangements of the Licensing Act 2003

Premises: 'Audio' 10 Marine Parade, Brighton BN2 1TL

Applicant: Tsunami Enterprises Limited, Cordoba, Tong Dean Road, BN3 6QB

Ward affected: Queen's Park

1. Purpose of the report

- 1.1 To determine an application for a premises licence.

2. Summary of application

- 2.1 The application is for:

A variation for the premises licence already granted under 'grandfather rights'.

The variations proposed:

- To extend the hours for the provision of alcohol
- To extend the hours for regulated entertainment

2.2 Summary table of existing and proposed activities

	Existing	Proposed
A Plays	None	none
B Films	None	none
C Indoor sporting Events	None	none
D Boxing or Wrestling	None	none
E Live music	Licensing Act 1964 Sec 182 Two performers PLUS by virtue of the public entertainment licence Sunday to Thursday 12:00 – 02:00 Friday and Saturday 12:00 – 04:00 Ground Floor - 260 Basement - 320	Sunday - Friday 10:00 - 03:00 and Saturday 10:00 - 04:00 PLUS To incorporate extended opening hours on New Year's Eve Ground Floor - 260 Basement - 320
F Recorded Music	Licensing Act 1964 sec 182 music provided by recorded sound ancillary to alcohol sales PLUS by virtue of the public entertainment licence Sunday to Thursday 12:00 – 02:00 Friday and Saturday 12:00 – 04:00 Ground Floor - 260 Basement - 320	Sunday - Thursday : 10:00 - 03:30 and Friday ·& Saturday : 10:00 - 04:30 Ground Floor - 260 Basement - 320
G Performance of Dance	None	Sunday to Thursday 10:00 - 03:30 and Friday ·& Saturday 10:00 - 04:30 PLUS To incorporate extended opening hours on New Year's Eve Ground Floor - 260 Basement - 320
H Anything of a similar description within e, f ,or g	None	Sunday to Thursday 10:00 - 03:30 and Friday ·& Saturday 10:00 - 04:30 PLUS To incorporate extended opening hours on New Year's Eve Ground Floor - 260 Basement - 320
I Provision of facilities for making music	None	Sunday to Thursday 10:00 - 03:30 and Friday ·& Saturday 10:00 - 04:30 PLUS To incorporate extended opening hours on New Year's Eve
J Provision of facilities for dancing	Sunday to Thursday 12:00 – 02:00 Friday and Saturday 12:00 – 04:00 Ground Floor - 260 Basement - 320	Sunday to Thursday 10:00 - 03:30 and Friday ·& Saturday 10:00 - 04:30 PLUS To incorporate extended opening hours on New Year's Eve Ground Floor - 260 Basement - 320

K Provision of facilities for entertainment of a similar description to that falling with in i or J	None	Sunday to Thursday 10:00 - 03:30 and Friday ·& Saturday 10:00 - 04:30 PLUS To incorporate extended opening hours on New Year's Eve Ground Floor - 260 Basement - 320
L Late Night Refreshment	None	Sunday to Thursday 23:00 - 03:00 and Friday ·& Saturday 23:00 - 04:00 PLUS To incorporate extended opening hours on New Year's Eve
M Supply of Alcohol	<p>1. Permitted Hours</p> <p>Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means:</p> <p>a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10:00 hrs to 23:00 hrs</p> <p>b) On Sundays, other than Christmas Day or New Year's Eve, 12:00 to 22.30 hrs</p> <p>c) On Good Friday, 12:00 to 22.30 hrs</p> <p>d) On Christmas Day, 12:00 to 15:00 hrs, and 19:00 hrs 22.30 hrs</p> <p>e) On New Year's Eve, except on a Sunday, 10:00 hrs to 23:00 hrs</p> <p>f) On New Year's Eve on a Sunday, 12:00 to 22:30 hrs</p> <p>g) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.</p> <p>PLUS By virtue of Licensing Act 1964 section 77 Monday to Saturday until 02:00 Sunday until 00:30 Bank Holiday Sunday 02:00</p>	Monday to Thursday 10:00 - 03:00 and Friday ·& Saturday 10:00 - 04:00 Sunday 12:00 - 0300
O Hours premises are open to public	As above plus 20 mins drinking up time	Monday to Thursday 10:00 - 03:3 and Friday ·& Saturday 10:00 - 04:3 Sunday 12:00 – 0300 Ground Floor - 260 Basement - 320
P Conditions removed as a consequence of the proposed Variation	<p>Remove any embedded restrictions in the current licences which restrict the times of entry and the provision of licensable activities to allow for later operating times and the provision of those licensable activities as indicated within the hours laid out in the application.</p> <p>The removal of the word 'substantial' in the description of the supply of food To allow children of all ages in the venue before 20:00 hours in a designated no smoking area as long as they are with an adult at all times.</p>	

3. Representations received

3.1 Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. A summary appears below:

- a) Several representations were received from local residents and 1 (one) from a local residents' and business group, and Brighton & Hove Police
- b) The representations relate to concerns over the anticipated negative impact of extended opening hours, noise levels and possible public nuisance as well as crime and disorder.

4. Commentary on licensing policy

4.1 The following extracts from Brighton & Hove Licensing Policy are considered relevant to this application and numbered as they appear in the policy:

General

1.2 The licensing objectives are:-

- a) prevention of crime and disorder;
- b) public safety;
- c) prevention of public nuisance;
- d) protection of children from harm.

1.4 Each application will be given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act

1.14 Licensing law is not the primary mechanism for the general control of nuisance and anti-social 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. Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act, and the conditions attached to licences, certificates and permissions will be focused on matters which are within the control of the licensee and will centre on the premises themselves and their immediate vicinity. When considering these terms and conditions 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.

In respect of the prevention of crime and disorder

2.2 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority recommends that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door staff so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection.

2.3 It is expected that the designated premises supervisor (DPS) will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises.

2.4 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the licensing authority can take into account. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is therefore a matter for the market to decide and can, in some circumstances, be a matter for planning consideration; need therefore does not form part of this licensing policy statement.

The licensing authority may receive representations from either a responsible authority or an interested party, (both of which are defined in the Act), that the cumulative impact of new licences is leading to an area becoming saturated with premises of a certain type, making it a focal point for large groups of people to gather, and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases the issue of cumulative impact can be taken into account when considering the individual merits of an application.

Any objection to a licence application on the grounds of cumulative impact must be supported by clear evidence that one or more of the Licensing Objectives are likely to be undermined.

The licensing authority will not operate a quota of any kind, which would predetermine any application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres and other clubs may all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the differing impact they are likely to have on the local community.

2.5(a) Diversity of premises

This attempts to ensure that there is a mix of the different types of licensed premises, particularly in areas where there is a high density of such premises. It will provide resilience against changing trends and attract a more diverse range of customers from different age groups, different communities of interest and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This in turn may have a positive effect in reducing people's fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time, may create opportunities for violent crime and public disorder and therefore encourages mixed use venues, varying hours of business and a wider age balance.

Café Bars

The licensing authority may be prepared to look favourably upon an application for the grant of a licence, subject to the following conditions that will prevent the premises becoming a public house.

- The sale of intoxicating liquor and other beverages shall be waiter /waitress service for consumption by persons seated at tables.
- Substantial food shall be available at all times.

Licensees should be aware that breach of these conditions is likely to lead to proceedings for revocation of the licence.

Restaurants with outside service

The licensing authority will also consider applications from restaurants that request to serve alcohol to areas adjacent to or immediately outside their premises. In addition to the above conditions for café bars, the licensing authority will require evidence that the applicants have an agreement with the local authority to use the area as defined on a plan provided. The following condition will also apply: -

The sale and supply of alcohol for consumption off the premises shall be restricted to an area licensed by the Local Authority for use of the public highway as shown on the plan deposited and such area shall be defined by a physical barrier acceptable to the licensing authority.

2.5(b) Geographical spread

Spreading the siting of large venues (those with a capacity in excess of 250 people) across the city reduces the problems of dispersing large numbers of people leaving premises in close proximity at the same time. Taxi and bus queues can be flash points for public disorder and violence. A good geographical spread coupled with increased taxi ranks and bus stops near venues reduces waiting time and the potential for crime and disorder.

2.5(c) Care, control and supervision of premises

The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The Police will consider the applicants, objecting to the application where appropriate. The Police will suggest crime prevention measures in relation to, for example, the internal layout of the premises, close circuit television, help points, lighting and security staff. The Police may ask for conditions which support such measures to be imposed when planning or licensing applications are granted, e.g. type of licence, capacity, opening time restrictions.

2.6 Shops, stores and supermarkets which provide alcohol for consumption off the premises: the normal scenario will be to provide for sales of alcohol at any time when the retail outlet is open for shopping unless there are very good reasons for restricting those hours.

2.7 High volume vertical drinking establishments (HVVD's) may, where necessary and appropriate, have conditions attached relating to: a prescribed capacity, the ratio of chairs and tables to be provided for customers based on capacity and the presence of SIA registered security teams.

2.8 Enforcement of legal requirements to prohibit sales of alcohol to those intoxicated will be supported.

In respect of the prevention of public nuisance

4.2 In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, or as a result of people entering or leaving the premises.

4.3 Applications for new licences or for the extension in size of licensed premises should not normally be granted if the premises will use amplified or live music and operate within or abutting premises containing residential accommodation except that occupied by staff of the licensed premises. A condition may be imposed on new licences that entertainment noise shall be inaudible in any residence.

4.4 Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.

4.5 Staggered closing times will not be used to combat binge drinking disorder and antisocial behaviour. Zoning will be avoided. A general principle of later opening so that customers can leave for natural reasons, slowly over longer periods will be promoted, to prevent unnatural concentrations of people. The location of violent attacks, anti-

social behaviour and hate crime or related incidents may be used to justify closing times.

4.6 Generally permitted temporary activities in the open air including tents and marquees should have a maximum closure hour of 11.00pm. Earlier hours may be imposed in sensitive open spaces or near residential areas.

4.7 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.

4.8 Regard will be had to any history or likelihood of nuisance. Generally, favourable consideration will be given to applications for later hours in the city centre and on busy main roads. Powers may be exercised to impose conditions as to hours of opening in order to avoid unreasonable disturbance to residents of the neighbourhood.

In respect of Live music, Dancing and Theatre

7.1 This policy recognises the need to encourage live music, dancing and theatre for the wider cultural benefits of the community generally. In addressing such issues the potential for limited disturbance in neighbourhoods will always be carefully balanced with these wider benefits, particularly for children. The impact of licensing on regulated entertainment, particularly live music and dancing, will be monitored. Where indications are that such events are being deterred by licensing requirements, the policy will be revisited with a view to investigating how such situations might be reversed.

7.2 The Licensing Committee represents the general interests of a community. In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives. The Licensing authority is aware of the need to avoid measures which deter live music, dancing and theatre - such as imposing indirect costs out of proportion to the income of the licence holder and to the risks presented. Only necessary, proportionate and reasonable licensing conditions should impose any restrictions on such events.