

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS) Supplement 3

12.00PM, MONDAY, 21 OCTOBER 2024

VIRTUAL

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Supplement

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**INDEPENDENT EXPERT REPORT
FOR BRIGHTON and HOVE
LICENSING SUB-COMMITTEE**

KFC

(Kentucky Fried Chicken)

23 London Road, Brighton and Hove, Brighton, BN1 4JB

By Andrew [REDACTED]

Dated: 11th October 2024

Executive Summary

London Road is a busy retail area in the Special Impact Area of Brighton. It is particularly busy during retail hours and the area around the Market entrance appears to be one of the busier points in the road.

Once the main retail premises close down, at the end of the normal trading hours, the road becomes quiet after about 22.00.

The police have identified the area as a hotspot for crime. However, they also conclude that the hotspot coincides with the daytime trade and not the night-time economy. They have also included crime data from the Cumulative impact area when making their case for the Special Impact Area application.

I witnessed no police patrols in the area and the local policing teams have not set local priorities or convened public meetings, which leads me to conclude that the area is not one of policing concern.

The applicant has taken a responsible approach to the application and undertaken an environmental scan and risk assessment.

The following elements in the application would be classified as exceptional circumstance in the Matrix approach (referenced by the Licensing Officer).

The application is not alcohol led. The sale and supply of alcohol is not included in the application.

“Consultation with and meeting requirements of responsible authorities will be an exceptional circumstance.” This consultation has been managed effectively and the operating schedule has been developed with the police as highlighted in the police representation.

The appicate will also ensure that SIA staff are employed throughout the licensed period 00.00-03.00 and that they contract a Mobile Support Unit (MSU). The unit will be accredited by the Brighton Crime Reduction Partnership (BCRP) or other similar organisation approved by Sussex Police should the BCRP not be in existence.

During my visit I did not witness any venue licenced to provide Late-Night Refreshment in the area operating with accredited SIA staff. The provision of SIA staff at KFC is proposed as part of the standard conditions in the application.

I did not witness any groups of young people roaming the streets after 23.00 and the Late-night refreshment venues that were open were relatively quiet and there was no issue with anti-social behaviour.

I have found nothing in my visit to the area along with a review of data that would give me any concern if KFC were to be licenced to provide Late Night Refreshment in the London Road area along with other venues that are licensed to provide Late Night Refreshment beyond 00.00.

Introduction

1. I have been asked by Christopher [REDACTED], of Woods Whur, to review and risk assess an application for a premises licence by KFC (Kentucky Fried Chicken).
2. The application is to supply late night refreshment from premises at 22-23 London Road, Brighton and Hove, Brighton, BN1 4JB. 280 from 23.00 until 03.00.
3. The venue currently holds a premises licence to supply Late-Night Refreshment between 23.00 and 00.00
4. My assessment is completely independent of my instructing agent and the owners and the managers of the venue whom I have never met or spoken to.
5. I have no personal involvement with any business or resident in the area.
6. I am able to evaluate the operational environment based upon my considerable experience and qualifications. I can view the environment through several perspectives and make objective interpretations.

I have attached my personal summary at appendix (1). In brief I have been:

- A licensing observation officer,
- A divisional licensing Inspector on a busy and challenging London Borough,
- The operations manager for the central London Clubs and Vice unit,
- A Detective Chief Inspector managing divisional crime investigations,

- A senior investigating Officer,
 - A Borough Commander responsible for developing and delivering local policing plans that include the night-time economy challenges,
 - As an Assistant Director, for 10 years, on a semi-inner London Borough I was responsible for the Safer Communities portfolio that included the development and delivery of the Partnership Community Safety Strategy. I was directly responsible for the Licensing function and the night-time economy, problem solving local crime and ASB hotspots, and the development and management of Licensing policies.
7. I acknowledge that as an expert witness my primary duty is to the Court and Licensing Sub-Committee. All facts identified in this report are true to the best of my knowledge and experience. They were either witnessed or experienced by me personally or relayed to me in good faith and appear to be credible and reliable.
8. The opinions I have expressed within in this report are honestly held and correct to the best of my judgement and belief. My fee for preparing this report is not conditional on the opinions I have stated within or the eventual outcome of the case.
9. Prior to my assessment I was provided with;
- The application form for a premises licence to supply late night refreshment.
 - A document setting out agreed conditions for the venue.
 - A document confirming the current licence to supply late-night refreshment between 23.00 and 00.00.
 - A copy of the conditions for the current licence.
 - A representation from Sussex Police.
 - A representation from Brighton and Hove City Licensing Authority.

- A representation from Councillor Susan [REDACTED]

10. I also consulted the Brighton and Hove Statement of Licensing Policy.
11. On Saturday the 28th September from 14.30 through to 03.00 on the 29th September 2024 I visited the area.

Venue

12. 22-23 London Road (Kentucky Fried Chicken) is a relatively small restaurant. The frontage of the building clearly identifies the venue in the corporate livery. It is not obtrusive or garish and blends in with the other retail outlets.
13. The entrance is in the centre of the frontage and the seating is on either side of the entrance. The seating extends some 7 meters from the entrance to the counter area where food is served.
14. I found the venue to be clean, staff were easily identifiable, and it was well illuminated. The venue provided a table service, takeaway and a delivery service that was serviced by delivery riders on pedal cycles and motorised scooters.
15. No noise emanated from the venue and no loud music was being played.
16. The venue does not and is not seeking to provide alcohol as part of its offer.

Visit

17. I arrived in Baker Street, Brighton at 14.30 and parked my vehicle. I walked into London Road to locate the KFC venue. London Road roughly runs north

to south and the KFC is on the west footway. I walked the length of the London Road on both footways between Rose Hill Terrace and Queens Place.

18. I would describe the road as having similarities to a busy town centre (High Street).
19. There were retail shops along the length of the road on both sides. There was heavy traffic in both directions and it appears to be a main transport thoroughfare for bus routes.
20. The premises above the retail outlets on either side of the road appeared to be either empty, offices, or residential properties.
21. The footways were quite crowded with pedestrians who were shopping or traversing through the area.
22. At the junction with Ann Street there is a paved area. This paved area extends along Ann Street to the junction with Providence Place. On the paved area at the junction with Ann Street I noticed a reasonably large group of people and I could hear music and the sound of a 'Rap' artist. Upon closer inspection I found that a 'Rap' artist had set up just in Ann Street and was performing to a crowd gathered on the paved area in Ann Street and the pavement of London Road.
23. The event was orderly. Although there was a crowd gathered, the gathering did not obstruct the footpath and pedestrians were not impeded.
24. Behind the buildings that line London Road there is a mixed environment that consists of residential housing, schools, places of worship and retail outlets and other industrial units. There are also a number of Licensed Premises.

25. There is a market area that sits within the boundary of London Road, Ditchling Road, Francis Street and Baker Street. The Market has an entrance on London Road in Marshall Row which appears to be the main entrance. There is another entrance on Ditchling Street.
26. Having walked the area, I then sat in the window of the Nova Café on the opposite side of the road from KFC. The café is on the corner of Francis Street. I sat at the front of the café beside the main window where I had a clear and unobstructed view of KFC and the immediate street scene.
27. I would not describe KFC as a very busy venue. There was a steady flow of customers that comprised of families, people who were clearly working seeking refreshment and shoppers to the area. I would describe the customer base as mainly adult. There were no large groups of teenagers frequenting the venue, but this was not a school day.
28. I remained there for 2 hours. The street scene did not change. Both pedestrian and road traffic was continuous. The only street gatherings that I witnessed were at the junction with Ann Street and on the pavement outside a venue called 'Presuming ED', a coffee lounge and bar on the opposite side of Francis Street from the Nova Café.
29. There were a number of food delivery riders operating in the area. Some were using London Road to ride along either to collect or deliver orders from other venues that were not in London Road.
30. There were other outlets in London Road that also provided a delivery service, KFC being one of them.

31. As I sat watching KFC, I could see that motorised scooters tended to park away from the venue and walk to the restaurant. The pedal cycle riders tended to place their bikes against the building line of KFC.
32. The delivery rider traffic was sporadic, it was not a continuous flow. The riders did not gather in groups, they entered the venue for a few minutes and left with their delivery.
33. The cycle riders who placed their cycles outside KFC did not cause an obstruction to the flow of pedestrian traffic along the west side of London Road. The greatest number of cycles at any one time outside the venue was 2. More often than not there were no cycles outside the venue.
34. On leaving Nova Cafe I remained in the street walking London Road and surrounding Streets.
35. It was quite noticeable that at around 17.00 both the pedestrian and road traffic started to steadily decrease.
36. Throughout the period 14.30 to 18.00 there was no anti-social behaviour and no gathering of teenage groups. I did not see any police patrols.
37. I left London Road just after 18.00 to have a meal and returned at 19.30.
38. On my return the pedestrian flow was extremely light and the road traffic I would describe as moderate.

39. There were no groups of young people in the street, no nuisance, noise, or any other type of anti-social behaviour. The environment was that of a calm and generally quiet high street.
40. I walked London Road noticing that the food outlets were busy but there were no anti-social behaviour issues.
41. There were no push bikes outside KFC and no scooters in Francis Street.
42. There was one venue in London Road that was busier than the rest and there were a number of delivery riders outside the venue. However, they were not noisy, they were not causing problems and they did not rev engines or raise their voices.
43. As the evening progressed London Road itself became increasingly quieter.
44. Delivery riders continued to collect deliveries from KFC. Even though the London Road had virtually no traffic. There was no noise or disturbance from the riders and they always collected their deliveries quickly and left.
45. At either end of the London Road and along Ditchling Road are a number of licensed premises that became busy however they did not present a problem to the licensing objectives for the immediate area.
46. Between the hours of 19.30 and 00.00 There was nothing in the area of London Road that was of any concern. No anti-social behaviour, no groups causing rowdy or drunken behaviour. There were no police patrols.

47. At 00.00 KFC closed. Staff cleaned the restaurant and the pavement outside the venue.
48. Once KFC closed it was clear that there is a mixed economy in operation where a number of other venues remained open beyond midnight.
49. There is a 24 hour casino in the London Road along with 2, 24 hour gymnasiums.
50. A fast food venue that remains open to 03.00 with a delivery service to 03.45. another that remains open to 02.00.
51. Around the London Road and adjacent streets there are a number of licensed premises that are open beyond 23.00. Their closure times vary between 00.00 and 03.00.
52. There is also a food store in London Road with fruit and vegetables set out on stalls that cover the pavement across the frontage of the shop. In addition to fruit and vegetables the store sells a variety of produce and products.
53. Outside the store the footway becomes very narrow. This shop remained open throughout the period that I observed London Road and the surrounding streets.
54. In Preston Road, just along from London Road there is an off licence and mini market that remained open and had a door advertisement highlighting that it remained open to 05.00.

55. In addition, there were 2 fast food outlets, one advertising and operation until 02.30 and another until 04.00.
56. In Beaconsfield Road there is a fast food venue open until 02.45.
57. In York Place at the junction with Trafalgar Street there is another late night refreshment premises that operates a delivery service from 23.00 to 03.00. This venue is operated by the same company that operates a venue in London Road that is open until 03.45.
58. On the corner of Viaduct Road and Ditchling Road is a venue that is open until 03.45. This venue appears to be licensed to sell alcohol and late night refreshment as it advertises and displays both alcohol and fast food.
59. I was not aware of any SIA registered staff working at premises licensed to sell late-night refreshment.
60. I remained in the area walking the streets until 02.30. At 02.30 I drove my vehicle around the one way system and London Road until 03.00 when I left the area.
61. The period between 00.00 and 03.00 was quiet. There were a few pedestrians and a few vehicles but nothing of note. There were no police patrols.
62. There was no teenage groups or intoxicated individuals making a noise in the street. The premises that are licensed to sell alcohol had SIA staff monitoring the venue. The closing period was uneventful and there was no drunken rowdiness or drunken groups singing and shouting in the streets.

63. Delivery cyclists and scooter riders continued to ride up and down London Road, some stopping at those venues in and around London Road that were licensed to supply late-night refreshment. They were not a nuisance; they did not rev engines or gather in groups outside any of the venues.
64. I saw nothing that would cause any form of concern that any of the licensed premises in and around the area were crime drivers or that they were having a negative impact upon the 4 licensing objectives.

Cumulative Impact Zone and Special Stress Area

65. The venue (KFC) is in London Road and is therefore not situated within the Cumulative Impact Zone. Consequently, the presumption to refuse the licence as part of the special policy does not apply to this particular application.
66. The venue (KFC) does sit within the Special Stress Area.
67. The Special Stress Area guidance states that, “New and variation applications for premises and club premises certificates within the SSA will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas.”
68. This guidance has prompted the applicant to commission this risk assessment to understand the environmental issues that exist in London Road Brighton and to be the foundation in the development of their operating schedule to ensure that their business will not have a negative impact upon the licensing objectives.

Annex A

69. Annex A provides a check list for Licensing Best Practice Measures. It is a generic list and is not tailored for Late Night Refreshment only. I have highlighted the areas within the Best Practice Measures that the venue adheres to.
70. The vast majority of the measures are designed around premises licenced to sell and supply alcohol.
71. The sale and supply of alcohol does not form part of the application and smoking is banned in the venue.
72. All soft drinks are sold in plastic or paper cups.
73. There is a professional incident log that is maintained by the staff who are fully trained to make the relevant entries. It is always available for inspection by authorised officers.
74. There is a comprehensive CCTV system in the venue and a suite of proposed conditions that ensure that the relevant authority will have quality evidential material if they require it.
75. The operating schedule includes membership of Business Crime Reduction Partnership, and the inclusion of the Staff Safe initiative.

Crime data

76. The venue 'KFC' sits within the London Road Policing Team area. Whilst both sides of London Road are within the London Road Policing Team area, The road forms the boundary with the Viaduct local policing team.

77. The Viaduct police team have responsibility for a covered market that sits between the London Road and Ditchling Road. The main entrance to the market is in London Road via Marshall Row, almost opposite KFC.
78. A review of the local policing teams web page on the Police UK website highlights that the London Road and The Viaduct police team has not set any policing priorities for their areas and that no meetings are scheduled.
79. The assumption is that there are no pressing priorities for the two areas and in particular London Road.
80. The absence of policing priorities and meetings gives the impression that this is a low crime area with no pressing priorities.
81. I noted that in the Police representation the Police used the data from the St Peter and North Laine Ward.
82. A large proportion of the ward sits within the Cumulative Impact Zone (CIZ) whereas the London Road area does not sit within the CIZ. London Road is within the Special Priority Area.
83. I was surprised to see that the police used data from the CIZ to cover premises within the Special Priority Area and that they hadn't qualified their position because this data will undoubtedly skew the picture at the London Road location. Using data from the CIZ to determine an application in a SPA is not a true reflection of the position.

84. The police representation provides, in the main, volume data. There is a reference to daytime crime but it does not highlight the time of the day or the day of the week.
85. There is no break down or analysis of the data that highlights what the crime types are that are specific to London Road, CIZ data has been included and there is no assessment of what the crime driver may be for the area.
86. I have used the Police UK website to review the data for the London Road Police Team that is specific to the location around Kentucky Fried Chicken (KFC). The data is provided by the Sussex Police and it is linked to the local Policing Teams.
87. Whilst the website aligns crimes to street locations it does have its limitations.
88. There is not a full suite of crime types and the database does not provide the times of the day that offences are committed or the day of the week. The site also states that the data may not contain all crimes.
89. The Police representation comments that the area around KFC as being a hotspot. However, it does not identify that this particular location is also the area around the entrance/exit for the market area between London Road and Ditchling Road.
90. The incidents, if they are daytime incidents as identified by the officer, tends to coincide with the opening hours of the market.
91. When reviewing the data, I used the same date range as highlighted in the Police representation. I also confined the review to the 'hotspot' identified in the police representation.

92. My review of the hotspot in London Road between 1st August 2023 and the 31st July 2024, as shown on the Police UK website, identified total of 214 crimes over the 12 month period. That would equate to around 18 crimes per month. Less than one crime a day.
93. The website totals the number of crimes under a 'type' or classification. I found that the following crime types were linked to the hotspot.
- Theft offence 82 offences (38%)
 - Other crime 61 offences (29%)
 - Violence 36 offences (17%)
 - ASB 17 offences (8%)
 - Criminal Damage 6 offences (3%)
 - Burglary 7 offences (3%)
 - Public Order 5 offences (2%)
94. The most prevalent offence in the area was shoplifting with 71 offences (33%) of the total. The reasonable assumption is that this is a daytime offence committed in a number of retail outlets around KFC and the covered market.
95. It would not be linked to the night-time economy.
96. The crime type 'Other offences' accounts for 61 offences (29%) of the total. This category would include fraud, dangerous driving, Handling stolen goods, Going equipped to steal, Forgery offences, Bail offences, Absconding, Obstruction.
97. None of these offences would have a direct link to the night-time economy.

98. There were 63 offences (17%) identified as violent crime. Unfortunately, the website does not allow further interrogation of the data. However, it should be borne in mind that not all allegations of this crime category will link to alcohol, the late night economy or specifically late night refreshment.
99. It may include assaults in the commission of shoplifting (which is a prevalent crime at this location), workplace and home disputes, robbery, as well as more serious offences. The Police UK database does not breakdown the violence crime type and neither does the officer in the representation.
100. A large percentage of the crimes committed at this location would, in my opinion, correlate with retail crimes and not the night-time economy. Even the police representation identifies that the crimes occur during the day.
101. The street scene was exceptionally busy during the main retail hours. As the evening set in the area quietened down and between 00.00 and 03.00 the location was quiet.
102. The absence of any type of police patrol (on a Saturday evening) would also tend to support that view.
103. I have asked for and been provided with incident reports from the KFC in London Road, Brighton, that covers the same period presented by the police in their representation.
104. I have been provided with 3 reports. The incident logs are from the Prime System and corporately badged 'KFC.'

105. From the detail in the reports, it is clear that the staff have conscientiously used the incident log system.
106. Of the 3 reports two account for bad behaviour. One in September 2023 and one in December 2023. Both were in the afternoon and would not have impacted on late night refreshment.
107. The third appears to be a road traffic accident that occurred late in the evening in November 2023.
108. There is nothing in the reports that suggest that the venue is having a negative impact in London Road, and more specifically upon the 4 licensing objectives.

Representations

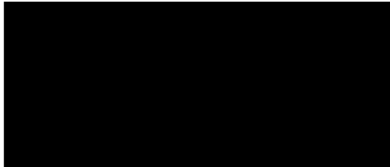
109. I have been provided with 3 representations and I note there has not been any representation from residents.
110. Police (see crime data section)
111. Licensing Officer
112. The officer highlights that “Operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas.”
113. In this respect the applicant has commissioned a risk assessment and review of the crime data for the area. Demonstrating a responsible approach to the application and their proposed operation.

114. Included in the suite of conditions is the proposal to include trained and accredited SIA staff during the licenced period 00.00-03.00. This is not something I have seen replicated at other Late-night Refreshment venues during my visit.
115. The officer references the matrix approach and does not feel that the applicant has demonstrated any exceptional circumstances for the application to succeed. On reading the notes for the matrix I would take the view that the following are exceptional circumstances.
116. Paragraph 5 of the notes on the matrix states that consultation with and meeting requirements of responsible authorities will be an exceptional circumstance. This consultation has been managed effectively and the operating schedule has been developed with the police as highlighted in the police representation.
117. In addition, paragraph 5 highlights, an exceptional circumstance being that alcohol sale is ancillary to business activity. It is not an alcohol led venue and alcohol will not be sold or supplied at the venue.
118. The applicate will also ensure that SIA staff are employed throughout the licensed period 00.00-03.00 and that they contract a Mobile Support Unit (MSU). The unit will be accredited by the Brighton Crime Reduction Partnership (BCRP) or other similar organisation approved by Sussex Police should the BCRP not be in existence.
119. Councillor Sue [REDACTED]
120. The Councillor states her objection but provides no rationale for her position.

Conclusion

121. London Road is a busy retail area in the Special Impact Area of Brighton. It is particularly busy during retail hours and the area around the Market entrance appears to be one of the busier points in the road.
122. Once the main retail premises close down, at the end of the normal trading hours, the road becomes quiet after about 22.00.
123. The police have identified the area as a hotspot for crime. However, they also conclude that the hotspot coincides with the daytime trade and not the night-time economy. They have also included crime data from the Cumulative impact area when making a case for the Special Impact Area.
124. I witnessed no police patrols in the area and the local policing teams have not set local priorities or convened public meetings, which leads me to conclude that the area is not one of policing concern.
125. During my visit I did not witness any venue licenced to provide Late-Night Refreshment in the area operating with accredited SIA staff. The provision of SIA staff at KFC is proposed as part of the standard conditions in the application.
126. I did not witness any groups of young people roaming the streets after 23.00 and the Late-night refreshment venues that were open were relatively quiet and there was no issue with anti-social behaviour.

127. I have found nothing in my visit to the area along with a review of data that would give me any concern if KFC were to be licenced to provide Late Night Refreshment in the London Road area along with other venues that are licensed to provide Late Night Refreshment beyond 00.00.



11th October 2024

