

Licensing Panel (Licensing Act 2003 Functions)

Agenda Item 33

Brighton & Hove City Council

Subject:	Application for a New Premises Licence under the Licensing Act 2003		
Premises:	George IV Hotel 34 Regency Square Brighton BN1 2FJ		
Applicant:	Design House Brighton Limited		
Date of Meeting:	31 August 2012		
Report of:	Head of Regulatory Services		
Contact Officer:	Name:	Jim Whitelegg	Tel: (01273) 292438
	E-mail:	Jim.Whitelegg @brighton-hove.gov.uk	
Wards Affected:	Regency		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for George IV Hotel.

2. RECOMMENDATIONS:

- 2.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for George IV Hotel.

2.2.1 The application is for:

A New Premises Licence under the Licensing Act 2003.

The application proposes:

Small guest house/hotel with bar

- 2.2.2 Part P of the application is detailed at Appendix A and the plan of the premises is attached at Appendix B.

2.3 Summary table of proposed activities

	Proposed
B Films	Indoors Every Day 10.00 – 23.00
E Live music	Indoors Every Day 19.00 – 23.00 For a maximum of 6 occasions per calendar year to put on small live music performances for residents and guests From the start of permitted hours on New Years Eve to the terminal hour on New Years Day. Bank Holiday Sundays, 24 th & 26 th December, St Patrick's Day & St George's Day until 00.00 hrs
I Provision of facilities for making music	Indoors Every Day 19.00 – 23.00 For a maximum of 6 occasions per calendar year to put on small live music performances for residents and guests From the start of permitted hours on New Years Eve to the terminal hour on New Years Day. Bank Holiday Sundays, 24 th & 26 th December, St Patrick's Day & St George's Day until 00.00 hrs
L Late Night Refreshment	Indoors Every Day 23.00 – 05.00 The provision of Late Night Refreshment will be limited to residents and their bona-fide guests after the premises has closed to the general public.

M Supply of Alcohol	<p>On the Premises</p> <p>Every Day</p> <p>10.00 – 23.00</p> <p>From the start of permitted hours on new years eve to the terminal hour on new years day. bank holiday sundays, 24th & 26th December, St Patrick's Day & St George's Day until 01.00hr</p> <p>Residents of the hotel and their bona-fide guests shall be able to purchase alcohol throughout the 24hr period.</p>
O Hours premises are open to public	<p>Every Day</p> <p>10.00 – 23.00</p> <p>From the start of permitted hours on new years eve to the terminal hour on new years day. bank holiday sundays, 24th & 26th December, St Patrick's Day & St George's Day until 01.00hr</p> <p>Residents of the hotel and their bona-fide guests shall have access to the premises throughout the 24hr period.</p>

3. **RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

3.1 Cumulative Impact: The premises falls within the Cumulative Impact Area ("The Area") (see Appendices C - E).

3.2.1 **Representations received**

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

3.2.2 Three representations were received. They were received from a local resident, a resident from within Brighton and Hove and a Resident's Association.

3.2.3 Representations received had concerns relating to Prevention of Public Nuisance.

3.2.4 A representation was received from Sussex Police which included conditions relating to Prevention of Crime and Disorder, Cumulative Impact, and the Protection of Children from Harm. The representation was withdrawn as the applicant agreed to the conditions and amended the operating schedule accordingly.

- 3.2.5 Full details of the representations and agreement are attached at Appendix F. A map of the location of the premises and the location of the representation within the 'vicinity' in its pre-S182 Guidance 25/4/12 meaning is at Appendix G. Please note that Responsible Authorities, Residents Associations and reps further afield are not shown on the map but can be found at Appendix F.

4. CONSULTATION

Commentary on licensing policy

- 4.1 The following extracts from Brighton & Hove City Council Statement of 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.
- 1.3 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its area.
- 1.5 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.
- 1.10.4 The licensing authority's preferred position is to ensure planning permission is in place before an application for a licence is made.

In respect of the prevention of public nuisance

- 4.1 Planning, building control and licensing will be properly separated to avoid duplication and inefficiency. Granting of licences will not relieve applicants of the need to apply for planning permission or building control consent and there is an expectation that these issues will have been explored before licensing applications are submitted. Applicants are recommended to obtain correct planning consents prior to applying for a licence to avoid potentially inoperative licences.
- 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, as a result of people entering or leaving the premises or from individuals or groups of customers gathered outside (e.g. in order to smoke)
- 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. Noise emanating from within licensed premises should not normally be audible outside.
- 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.
- 4.7 Regard will be had to any history or likelihood of nuisance. Generally, favourable consideration will be given to applications for later hours on busy main roads and in the central leisure area. Powers may be exercised to impose conditions as to hours of opening in order to avoid unreasonable disturbance to residents of the neighbourhood. Licensed premises in residential neighbourhoods will normally have a terminal hour no later than 2330. In mixed neighbourhoods they will normally have a terminal hour of no later than 0200 hours to counter noise disturbance to residents as informed by the health impact assessment and requested by Licensing Strategy Group. The Licensing Authority has adopted a matrix approach to licensing decisions (see 2.7.1)
- 4.9 Reasonable controls are available to all premises operators to minimise the impact of noise from customers outside. The council's Environmental Health Department has issued guidance on a number of steps that can be taken in this respect which are endorsed by this policy (see 4.10 below).

4.10 Smoking Advice

Premises licence holders will be expected to:

- Develop a management plan on how to manage smoking on your premises and ensure that all staff are aware of the contents of this plan, and that it is effectively implemented. Noise from people smoking and talking can be intermittent, vary in character and volume and be intrusive. An effective smoking management plan will help prevent neighbours being disturbed.
- Comply with any planning conditions restricting the use of outdoor areas.
- Ensure that any structures used by smokers comply with the design criteria detailed in the Heath Act 2006 and that any structures, awnings, retractable canopies, etc have the relevant planning permission.
- Ensure any new lighting to outdoor areas must be designed so as not to cause a light nuisance to neighbours and again have the relevant planning permission and building control consent.
- Ensure that the conditions on the premises licence are complied with. There may be conditions restricting the hours of use of gardens and outdoor areas. Having reviewed the contents of the premises licence you may find it necessary to request a variation of your licence.
- Licence tables and chairs on the Public Highway under the provisions of the Highways Act 1980. These licences may have conditions restricting the times that the area can be used.
- Ensure drinks, glasses and bottles are not taken onto the highway unless there is a tables and chairs licence permitting use. A system should be adopted to prevent theft and 'spiking' of drinks, and reminding customers not to leave unattended items.
- Discourage smokers remaining in gardens and outdoor areas and determine terminal hours.
- Discourage smokers remaining outside by removing/disabling tables and chairs or prohibiting their use after a certain time. Lights and heaters will also be turned off.
- Introduce a system that after a certain time the number of smokers outside are restricted to a maximum number. Staff will be needed to manage this restriction.
- Employ staff and/or SIA registered door supervisors to manage doors and control customers and smokers entering and leaving the premises. Staff positioned on the doors can help to encourage customers not to cause a noise problem. It may be that staff are required to manage doors after a certain time, particularly during the hours when neighbouring residents are trying to sleep.
- Ensure door supervisors maintain order outside venues and protect customer safety. BCRP supports the use of Night Safe. Radio net and other pager systems and pub watch schemes can be used to provide for

rapid police response and alert other venues where customers and staff are endangered.

- Position signs to remind customers that the premises is in an area where people live. It is not always obvious in busy commercial streets with flats above. By changing the design and wording of signs customers do not forget. Signs can be located in and outside the premises and on tables.
- Use CCTV to manage outside areas.

- 4.11 Licensed premises should normally display prominent, legible signs at exits reminding customers to leave in a quiet, peaceful, orderly manner.

Strategic Integration

- 6.5 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include the use of closed circuit television cameras, use of the NightSafe radio system or accredited scheme, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening.

- 6.6 The licensing authority will have regard to the need to disperse people quickly and safely from the city centre to avoid concentrations which may produce disorder and disturbance.

- 6.8 Other regulatory regimes

This policy avoids duplication with other regulatory regimes wherever possible.

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. All members of the Licensing Committee will be trained on Licensing Act 2003 and S182Guidance. 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.

- 7.3 The licensing committee will support the cultural zones, outdoor eating areas, food led operations, community pubs, live entertainment and protect living conditions in mixed use areas.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

The licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime.

Finance Officer Consulted: Karen Brookshaw Date: 14.08.2012

5.2 Legal Implications:

The licensing authority must act to promote the four licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The licensing authority must have regard to its statement of licensing policy and the guidance issued by the Secretary of State in carrying out its functions.

Lawyer Consulted: Rebecca Sidell

Date: 14.08.2012

5.3 Equalities Implications:

Diversity is valued and strong, safe communities are vital to future prosperity. Licensing policy aims to protect children from harm including sale and supply of alcohol to children.

5.4 Sustainability Implications:

Licensing policy aims to prevent public nuisance and develop culture of live music, dancing and theatre.

5.5 Crime & Disorder Implications:

Licensing policy aims to prevent crime and disorder and protect public safety.

5.6 Risk and Opportunity Management Implications:

Licensing is a crucial business and employment opportunity and unnecessary regulation might lead to legal challenge.

5.7 Corporate / Citywide Implications:

The success of the city's tourism strategy requires a safe, attractive city centre to improve competitiveness. The Act may significantly change night time economy

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A – Part P of the Application
2. Appendix B – Plan of Premises
3. Appendix C – Brighton & Hove City Council – Cumulative Impact Zone
4. Appendix D – Brighton & Hove City Council – Special Stress Area
5. Appendix E – Measures to be considered in the SSA
6. Appendix F – Representations and agreement
7. Appendix G – Map of area

Documents in Members' Rooms

1. Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2011, as amended 20 December 2011.

Background Documents

1. Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2011, as amended 20 December 2011.