

# Licensing Panel (Licensing Act 2003 Functions)

## Agenda Item

Brighton & Hove City Council

<b>Subject:</b>	<b>Application for a New Premises Licence under the Licensing Act 2003</b>		
<b>Premises:</b>	<b>Marvans News 84 Beaconsfield Road Brighton BN1 6DD</b>		
<b>Applicant:</b>	<b>Ronak Patel</b>		
<b>Date of Meeting:</b>	<b>18 March 2013</b>		
<b>Report of:</b>	<b>Head of Regulatory Services</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Emma Bricknell</b>	<b>Tel: (01273) 296051</b>
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<b>Wards Affected:</b>	<b>Preston Park</b>		

### 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 Marvans News

#### 2. RECOMMENDATIONS:

2.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for Marvans News

2.2.1 The application is for:

A New Premises Licence under the Licensing Act 2003

The application proposes:

The premises are a small newsagent/convenience store situated on a main road leading into Brighton. The store is in a parade of shops in what is mainly a commercial area, although residential flats are above and some housing is nearby. The premises wish a licence to retail alcohol for consumption off the premises to compliment the existing offer.

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

### 2.3 Summary table of proposed activities

	<b>Existing</b>	<b>Proposed</b>
<b>M Supply of Alcohol</b>	N/A	Every Day 08:00 to 21:30 Off Premises

See email in Appendix C from agent regarding change of times

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

### **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 One representation was received. It was received from Sussex Police.

3.2.3 Representation received had the concerns relating to Prevention of Crime and Disorder and Protection of Children from Harm.

3.2.5 Full details of the representation are attached at Appendix D. A map detailing the location of the premises is attached at Appendix E.

## **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 crime and disorder**

- 2.1 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority expects 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 supervisors 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. It is the duty of the designated premises supervisor (DPS) to train staff on induction concerning conditions on their premises licence.

- 2.2 It is expected that the 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 and that staff are authorised by the DPS.
- 2.4 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.
- 2.5 Measures put in place should support the intentions of Operation Marble (police operational order refers), which aims to prevent incidents of crime and disorder within the night time economy, at weekends. Operation Marble operates with a view to minimising the risk to the public of being a victim of public place violent crime; to reduce incidents of violent crime and public disorder within the City Centre; to deal positively with offences and offenders; to secure and preserve evidence which will assist in the prosecution of offenders and to support the night time economy and the responsibly run businesses within it.

## **2.7 The Licensing Authority will support:**

- 2.7.1 Diversity of premises: ensures that there is a mix of the different types of licensed premises and attracts a more diverse range of customers from different age groups, different communities and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This will 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 supports: mixed use venues encouraging a wider age balance. A "matrix" approach to licensing decisions has been adopted and is set out below.

Matrix approach for licensing decisions in a Statement of Licensing Policy

	<b>Cumulative Impact Area</b>	<b>Special Stress Area and London Road</b>	<b>Mixed Commercial and Residential Areas (streets containing shopping parades)</b>	<b>Residential Area (mainly residences in street)</b>	<b>Marina</b>
<b>Restaurant</b>	Yes (midnight)	Yes (2am)	Yes	Yes (11.30pm)	Yes
<b>Late Night Takeaways</b>	No	Yes (midnight)	Yes (midnight)	Yes (midnight)	Yes
<b>Night Club</b>	No	No	Yes (3am)	No	Yes
<b>Pub</b>	Yes (11pm)	Yes (11pm)	Yes (3am)	Yes (11pm, midnight Friday and Saturday)	Yes
<b>HVVD (Super pub)</b>	No	No	No	No	Yes
<b>Non-alcohol lead (e.g. Theatre)</b>	Yes (favourable)	Yes (favourable)	Yes (favourable)	Yes	Yes
<b>Off-licence</b>	No	No	No	Yes (8pm)	Local shops only
<b>Members Club</b>	Yes (<100)	Yes (<100)	Yes	Yes (11pm and midnight Friday and Saturday)	Yes

## Notes on matrix

Subject to the following, the policy, as represented in the matrix, would be strictly adhered to

- 1) Each application would be considered on individual merit
- 2) Departure from policy is expected only in exceptional circumstances
- 3) Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix
- 4) Exceptional circumstances may include: close consultation with Sussex Police and the Licensing Authority, meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to off set impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary business activity (demonstrable to responsible authorities and licensing authority, for instance by licence condition allowing authorised officers access to sales accounts), BCRP membership
- 5) The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community based street parties, members clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre
- 6) Shatterproof drinking receptacles will normally be required by licence condition in alcohol led establishments in the city centre
- 7) Outdoor events will be supported where arranged through the council's event planning process
- 8) Favourable consideration will be given to residential need
- 9) Favourable consideration will be given to local businesses properly engaged with the local licensing authority and responsible authorities

- 2.7.2 Favourable consideration will be given to promoting the city's cultural quarter, live entertainment in pubs, food led operations, developing LGBT and other communities of interest venues, particularly around St James's Street, promoting a family leisure area on the sea front with a more adult leisure centre at night.

### **In respect of the protection of children from harm**

The following details and measures are intended to address the need for the protection of children from harm; this includes moral, psychological and physical harm which may be associated with licensed premises and certificated club premises (for example the exposure too early to strong language and sexual expletives, e.g. in the context of film exhibitions or where adult entertainment is provided). It is intended that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed without restricting conditions (unless the 2003 Act itself imposes such conditions or there are good reasons to restrict entry or to exclude children completely).

5.1 Licensees should note the concern of the authority that drink related disorder frequently involves under 18's. To prevent illegal purchases of alcohol by such persons, the committee recommend that all licensees should work with a suitable 'proof of age' scheme and ensure that appropriate identification is requested prior to entry and when requesting alcohol, where appropriate. Appropriate forms of identification are currently considered to be those recommended by police, trading standards officers and their partners in the Licensing Strategy Group (e.g. passport, photo driving licence or pass card).

5.2 It is the licensing authority's expectation that all staff responsible for the sale of intoxicating liquor receive information and advice on the licensing laws relating to children and young persons in licensed premises. Licensed premises staff are required to take reasonable steps to prevent under age sales. The licensing authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.

5.4 The licensing authority will not seek to require that access to any premises is given to children at all times – under normal circumstances this will be left to the discretion of the licensee. The following areas give rise to concern in respect of children, who will normally be excluded from premises:-

- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is commonly provided.
- where premises are used primarily or exclusively for the sale and consumption of alcohol and there is little or no seating for patrons

Options may include:-

- limitations on the hours when children may be present;
- age limitations (below 18);
- limitations or exclusions when certain activities are taking place;
- requirements for an accompanying adult;
- full exclusion of people under 18.

- 5.5 Licensees of premises giving film exhibitions will be expected to include in their operating schedules arrangements for restricting children from viewing age restricted films. Such premises will be subject to a mandatory condition requiring that access will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification, or in specific cases where such certificates have not been granted, the licensing authority. The licensing authority does not intend to adopt its own system of film classification.
- 5.6 Where children are expected to attend a public entertainment, appropriate adult supervision will be required to control the access and egress of children and to protect them from harm. This will normally be an adult member of staff for every 100 children. Where the entertainment is music and dancing, 2 persons, licensed by the Security Industry Authority (door supervisors) should be employed for every 100 children but will be subject to advice within the Event Safety Guide. Nothing in this policy shall seek to override child supervision requirements contained in other legislation or regulations. The licensing authority recognises the Children, Families and Schools section as being competent to advise on matters relating to the protection of children from harm.
- 5.7 Children and Young Persons Overview and Scrutiny Council reported on Reducing Alcohol Related Harm to Children and Young People to Licensing Committee who agreed:
- 5.7.3 In determining applications and reviews, applications can only be dealt with on their individual merit. Use of schemes like Think 21 and Challenge 25 are appropriate on a case by case basis. Normally a Challenge 25 condition will be appropriate.
- 5.7.4 A clear causal link between price discounting and disorder will normally lead to the imposition of conditions prohibiting irresponsible promotions. This is now reflected in the new mandatory conditions which can be found on the licensing pages of the council's website.

## **5.8 Best Practice to protect children from harm**

The Council passed a Notice of Motion that licensing committee recommend best practice for both on and off premises to take on board on a voluntary basis, in order to promote responsible licensing.

- Staff must be aware of the risk of the problem of proxy sales and offer assistance to responsible authorities to deter offences
- Signage on premises should set out legal duties
- Voluntary restriction of high strength alcohol – operating schedules may be used to limit high ABV beers and ciders
- Staff training – in addition to personal licence holders training, staff must be adequately trained for duties
- Challenge 25 would be the norm, particularly in the off licence trade
- Signage – proxy sale – deterrence

The council will support accreditation schemes, such as Best Bar None and Purple Flag, where appropriate and subject to resources.

## **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.

## **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: Jeff Coates

Date: 26.02.2013

### **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: 26.02.2013

### **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 – Proposed Plan of Premises
3. Appendix C – Email from Agent
4. Appendix D – Representation
5. Appendix E – 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.

