

**LICENSING PANEL**  
**(Licensing Act 2003 Functions)**

**Agenda Item 30**

Brighton & Hove City Council

<b>Subject:</b>	<i>Application for a New Premises Licence under the Licensing Act 2003 for Mange Tout, 81 Trafalgar Street, Brighton, BN1 4EQ</i>		
<b>Date of Meeting:</b>	<b>03 August 2009</b>		
<b>Report of:</b>	<i>Assistant Director Public Safety</i>		
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<b>Wards Affected:</b>	St Peter's & North Laine		

**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 Mange Tout

**2. RECOMMENDATIONS:**

2.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for Mange Tout

2.2.1 The application is for:

A New Premises Licence under the Licensing Act 2003 for

The application proposes:

It is a ground floor premises located in a central position on the northern side of Trafalgar Street forming part of a recently built mixed use development close to Brighton Railway Station. Other retailers in the area include Forfars bakery, Café Nia, and the Prince Albert pub. The premises comprise a well fitted kitchen with extraction system running to the roof.

In the main restaurant area is a chiller display, a bar, 28 seats capacity and a further 8 externally.

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:

	<i>Proposed</i>
<b>F Recorded Music</b>	Indoors Background music – (Jazz)  Every Day: 09:00 - 23:00  New Year's Eve: 09:00 - 03:00
<b>M Supply of Alcohol</b>	Sale by Retail of Alcohol for consumption On and Off the Premises  Every Day: 09:00 - 23:00  New Year's Eve: 09:00 - 03:00
<b>O Hours premises are open to public</b>	Every Day: 09:00 - 23:00  New Year's Eve: 09:00 - 03:00

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

3.1 Special Stress Area: The premises falls within one of the Special Stress Areas. These areas are deemed areas of special concern in terms of the levels of crime, disorder, and public nuisance experienced within them. (See Prevention of Crime and Disorder 2.4.10 – 2.4.14 and 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 One representation was received. It was received from a local resident.

3.2.3 The representation received had concerns relating to the Prevention of Crime and Disorder and the Prevention of Public Nuisance.

3.2.4 Representations were received from a local resident's association and Sussex Police which included conditions relating to Prevention of Crime and Disorder, Prevention of Public Nuisance, the Protection of Children from Harm and the Special Stress Area. Their representation was withdrawn as the applicant agreed to the conditions and amended the operating schedule accordingly.

- 3.2.5 Full details of the representation and agreement are attached at Appendix F. A map detailing the address of the person who has submitted the representation and their location in relation to the premises is attached at Appendix G. (Please note that although there is now only one representation it is labelled 'Rep B'.)

#### **4. CONSULTATION**

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.
- 1.3 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focussed on matters which are in the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity.
- 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
- 1.15 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.
- 2.4.10 Special Stress Areas – **Appendix D** of the SoLP details two areas of the Brighton city centre which border the Cumulative Impact area at **Appendix C** and which are deemed areas of special concern in terms of the levels of crime and disorder and public nuisance experienced within them.
- 2.4.11 While it is not considered appropriate at this stage to include these areas within the main impact area as such, these Special Stress Areas (SSAs) are of concern to the licensing authority because of the relatively high levels of crime and disorder and nuisance experienced.
- 2.4.12 New and varied applications for premises and club premises certificates within SSAs 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. **Appendix E** of the SoLP sets out a list of potential measures the licensing authority considers may be appropriate. These may be more or less appropriate depending upon the style of operation applied for.
- 2.4.13 On receipt of any application in SSAs, where a relevant representation has been made, the licensing authority will scrutinise the application carefully and will look at the measures proposed in the operating schedules and compare them to the

measures set out in **Appendix E**. Where discretion has been engaged, those applications which fall short may be refused or conditions applied to comply with policy measures.

2.4.14 The Licensing Authority will keep the Cumulative Impact Area and Special Stress Areas under review. Should the authority find that problems of crime and disorder or nuisance are not improving, or are worsening; the Special Policy will be reviewed with a view to bringing the SSAs into the Cumulative Impact Area. If it is found that the above problems are receding the Special Policy may be reviewed with a view to revising the areas' boundaries.

#### 2.5.1 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.

#### 2.5.2 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.

#### 2.5.3 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.

**2.5.5 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.

- 2.8** Enforcement issues will be considered in the light of any relevant enforcement policies and close links will be sought between all enforcing authorities, e.g. through the use of intelligence sharing and strategy groups. Such protocols may lead to the targeting of agreed high risk and problem premises whilst permitting a lighter touch approach in respect of well run premises.

**In respect of the prevention of public nuisance**

- 4.1** 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 or from individuals or groups of customers gathered outside (e.g. in order to smoke)
- 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.

## **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, 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.
- 6.7 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: Karen Brookshaw      Date: 14.07.2009*

### **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: 14.07.2009*

### **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 application
2. Appendix B – Plan of Premises
3. Appendix C – Brighton & Hove City Council – Special Stress Areas
4. Appendix D – Measures to be considered in SSA's
5. Appendix E – Brighton & Hove City Council - Cumulative Impact Area
6. Appendix F – Representation and agreement
7. Appendix G – Map of area

### **Documents in Members' Rooms**

1. Environmental Health & Licensing Service, Brighton & Hove City Council (2008): The Licensing Act 2003 – Brighton & Hove City Council: Statement of Licensing Policy.

### **Background Documents**

1. Environmental Health & Licensing Service, Brighton & Hove City Council (2008): The Licensing Act 2003 – Brighton & Hove City Council Statement on Licensing Policy.



## APPENDIX A

P Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

We intend to offer a cultural & responsible approach to drinking by "offering" quality products in a safe environment supervised by professional & trained staff. Our main U.S.P. will be based mainly on Food & Hot drinks (office trade-lunch). However we will enforce a responsible drinking policy through pubwatch scheme & experienced management.

b) The prevention of crime and disorder

- CCTV would be installed and signs associated with the CCTV.
- Pubwatch scheme
- restricted entry policy
- Staff will check regularly all areas of the licensed premises including toilets. (all other areas are visible from the bar)
- development of good relation with local police officers.
- No happy hour and quantity incentive.

c) Public safety

- "no drink & drive" scheme; "monkey drivers" signage & taxi facilities.
- responsible drinking policy
- carefully selected products & small alcohol list; 7 wines & 3 beers.
- Small & new premises with up to date fire requirements.
- Both directors will be working in the premises - Both licensed. We also insist on all our staff to be licensed. Directors also holds health & safety certificates.

d) The prevention of public nuisance

- Pubwatch scheme.
- Taxi scheme available on request.
- low level of noise generated by/in the premises; 30 covers, newly installed extraction duct, Background music, good phonic isolation
- no drinks to be taken outside after 10.00pm
- Early closing - 11.00pm

e) The protection of children from harm

- strict no under 18 policy
- proof of age requested if appearing under 21 years old. (appropriate signage displayed)
- no children under 16 years old allowed in the premises if not accompanied by an adult.



## APPENDIX C

### Brighton & Hove City Council - Cumulative Impact Area



The Cumulative Impact Area comprises the area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Spring Street to the junction with the west side of Dyke Road at its eastern end; from there, north-east to the junction of the north side of Ayr Street with the west side of Queens Road and then northward to the north-west corner of Queens Road junction with Church Street; thence along the north side of Church Street eastwards to its junction with Marlborough Place and continuing south-east across to the north-western junction of Edward Street; along the north side of Edward Street to the east side of its junction with Egremont Place and southward along the eastern sides of Upper Rock Gardens and Rock Gardens; southward to the mean water mark and following the mean water line westward to a point due south of the west boundary of Preston Street; northward to that point and along the west side of Preston Street to its northwest boundary and then diagonally across Western Road to its intersection with the west side of Spring Street

## APPENDIX D

### Brighton & Hove City Council – Special Stress Areas

The areas recommended for further monitoring and detailed guidance within the Special Policy comprise the following as pictured below:-



Area 1 - an area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Spring Street and along the north side of Western Road, Hove to its intersection with the west side of Holland Road; southward along the west side Holland Road to its end and then due south across the Kingsway to the mean water mark; along the mean water mark eastwards to the intersection with the boundary of the cumulative impact area and along that boundary northwards to the intersection of Western Road, Brighton with the west side of Spring Street.

Area 2 – an area bounded by and including: from a point on the west side of the Surrey Street / Terminus Road intersection adjacent to Guildford Road eastwards along the north side of Trafalgar Street to its eastern end; due east across York Place to the east side of Richmond Place; southward along the east side of Richmond Place and Grand Parade to the cumulative impact area's Edward Street boundary; westwards along the cumulative impact area's northern boundary to the north-west corner of the Church Street junction with Queens Road; north along the west sides of Queens Road and Surrey Street to the point on the west side of the Surrey Street / Terminus Road intersection adjacent to Guildford Road.

## APPENDIX E

Measures to be included for consideration in SSAs are:

Matters that would normally be expected in operating schedules -

- the adoption of a “Challenge 21” policy with acceptable proof of id as per existing Statement of Licensing Policy
- all off sales to be made in sealed containers for consumption away from the premises
- a smoking policy which includes an assessment of noise and litter created by premises users
- the use of plastic or polycarbonate drinking vessels and containers, especially in outside areas or after specified hours
- a policy in relation to searching customers and for drugs, weapons, seized or lost and found property
- use of a refusals book for registering attempts to buy alcohol by under-age persons or refusals to those intoxicated
- the installation of a digital cctv system by liaison with, and to a standard approved by, Sussex police
- policies for dispersal of customers which may include signage regarding taxi services’ telephone numbers and advice to respect neighbours and minimize noise
- systems to ensure any SIA door staff or Mobile Support Unit personnel display appropriate badges when on duty

Items to which positive consideration would be given -

- membership of Brighton Crime Reduction Partnership, Pubwatch, Neighbourhood Watch or similar schemes
- use of ‘nightsafe’ radio system or similar accredited scheme
- regular training and reminders for staff in respect of licensing legislation, policies and procedures; records of which should be properly recorded and available for inspection
- records of regular checks of all parts of the premises in relation to drug use
- systems in place to ensure details of barred clients are exchanged with other operators
- giving an agreed minimum notice of special events (screening of major sports events, birthday parties, adult entertainment, etc.) to relevant authorities and use of appropriate additional measures at such events

Matters that might be recommended for appropriate restrictions -

- entry to premises by under 18s after certain times
- consumption of food and drink in smoking areas
- access to outside seating areas after certain times