

LICENSING PANEL

(Licensing Act 2003 Functions)

Agenda Item 99

Brighton & Hove City Council

Subject:	<i>Application for a New Premises Licence under the Licensing Act 2003 for Sky Food & Wine, 17 York Place, Brighton</i>		
Date of Meeting:	3 December 2009		
Applicant (s):	Mr Mustafa Altun		
Report of:	<i>Assistant Director Public Safety</i>		
Contact Officer:	Name:	Jim Whitelegg	Tel: 29-2438
	E-mail:	jim.whitelegg@brighton-hove.gov.uk	
Wards Affected:	St Peter's And 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 Sky Food & Wine.

2. RECOMMENDATIONS:

- 2.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for Sky Food & Wine.

2.2.1 The application is for:

A New Premises Licence under the Licensing Act 2003 for Sky Food & Wine.

The application proposes:

The premises is a traditional shop consisting of a ground floor, located on a major road.

- 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>
M Supply of Alcohol	Off The Premises Monday to Wednesday 10.00 – 02.00 Thursday to Saturday 10.00 – 03.00 Sunday 10.00 – 02.00
O Hours premises are open to public	Monday to Wednesday 10.00 – 02.00 Thursday to Saturday 10.00 – 03.00 Sunday 10.00 – 02.00

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 This premises does not fall in the Cumulative Impact Area or the Special Stress Areas. A map of the location is shown on Appendix D.

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 Two representations were received. They were received from Sussex Police and Trading Standards.

3.2.3 Representations received had concerns relating to Protection of Children from Harm.

3.2.5 Full details of the representations are attached at Appendix C.

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 protection of children from harm

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.

- 5.2 It is the committee'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.

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: 16.11.2009

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: 16.11.2009

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 – Representations.
4. Appendix D – Map with location of Premises.

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.

