

# Licensing Panel (Licensing Act 2003 Functions)

## Agenda Item 95

Brighton & Hove City Council

<b>Subject:</b>	<b>Application for a New Premises Licence under the Licensing Act 2003 for Sea View Convenience Store, 41 Kings Road, Brighton, BN1 1NA</b>		
<b>Date of Meeting:</b>	<b>26<sup>th</sup> January 2009</b>		
<b>Report of:</b>	<b>Assistant Director Public Safety</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Sarah Ranger</b>	<b>Tel:</b> 295801
	<b>E-mail:</b>	<a href="mailto:sarah.ranger@brighton-hove.gov.uk">sarah.ranger@brighton-hove.gov.uk</a>	
<b>Wards Affected:</b>	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 Sea View Convenience Store.

#### 2. RECOMMENDATIONS:

- 2.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for Sea View Convenience Store.

- 2.2 The application is for:

A New Premises Licence under the Licensing Act 2003 for

The application proposes:

Convenience Store

### 2.3 Summary table of existing and proposed activities

	<i>Existing</i>	<i>Proposed</i>
<b>M Supply of Alcohol</b>	N/A	Every Day: 00:00 – 00:00 (24 hours a day)
<b>O Hours premises are open to public</b>	N/A	Every Day: 00:00 – 00:00 (24 hours a day)

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

3.1 The premises falls within the Cumulative Impact Area (“the Area”) in Brighton city centre (see paragraphs Prevention of Crime and Disorder 2.4.10 – 2.4.14 and detailed plan in Appendix A).

#### 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 Eighteen representations were received. They were received from the Police, a local Residents’ Association, local residents and local businesses.

3.2.3 Representations received had concerns relating to the Prevention of Public Nuisance, the Prevention of Crime and Disorder, the Protection of Children from Harm, Public Safety and Cumulative Impact.

### 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 Cumulative impact – the licensing authority may receive representations from either a responsible authority or an interested party that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. This should not, however, be confused with ‘need’ which relates more to the commercial demand for a particular type of premises. The issue of ‘need’ is therefore a matter for the market to decide and can, in some circumstances, be a matter for planning consideration; need therefore does not form part of this licensing policy statement.
- 2.4.1 Special Policy - Cumulative Impact is defined as the potential impact upon the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 2.4.2 The licensing authority after careful consideration has determined that the concentration of licensed premises in a small area of the city centre is causing problems of crime and disorder and public nuisance, and that therefore an approach to Cumulative Impact is necessary as part of its statement of licensing policy. This special policy was adopted for inclusion within the statement of licensing policy by Council on 13 March 2008.

- 2.4.3 This special policy will refer to a Cumulative Impact area (“the Area”) in the Brighton city centre, a detailed plan of which is attached at **Appendix A** of the Statement of Licensing Policy (SoLP).
- 2.4.4 The effect of this special policy is that applications for new premises licences or club premises certificates within the Area, or variations which are likely to add to the existing Cumulative Impact, will normally be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact.
- 2.4.5 Any variation application will potentially come within this special policy, including those for extensions of hours, subject always to an applicant satisfying the authority that there will be no adverse effect on Cumulative Impact.
- 2.4.6 This special policy also applies to all new premises licences and club premises certificates, for example pubs, off-licences, restaurants and take-away establishments.
- 2.4.7 The presumption of refusal does not relieve responsible authorities or interested parties of the need to make a relevant representation. If there are no representations the licensing authority must grant the application in terms consistent with the operating schedule submitted.
- 2.4.8 Furthermore, this special policy is not absolute. Upon receipt of a relevant representation, the licensing authority will always consider the circumstances of each case and whether it is justified in departing from its special policy in the light of the individual circumstances of the case. If an application is unlikely to add to the Cumulative Impact of the Area, it may be granted. The Impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of Cumulative Impact, a small restaurant or theatre may not.
- 2.4.9 If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that conditions would be ineffective in preventing the problems involved.

2.4.10 Special Stress Areas – **Appendix B** of the SoLP details two areas of the Brighton city centre which border the Cumulative Impact area at **Appendix A** 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 C** 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 C**. 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.

#### 2.5.5 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.

2.6 Shops, stores and supermarkets which provide alcohol for consumption off the premises: the normal scenario will be to provide for sales of alcohol at any time when the retail outlet is open for shopping unless there are very good reasons for restricting those hours.

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 Public Safety**

3.2 Conditions will be imposed in accordance with operating schedules to protect public safety including where justified:-  
(a) provision of close circuit television and panic buttons.

- (b) use of shatterproof drinking vessels, bottles requiring use of toughened glass or plastic (recognised by Community Safety Strategy).
- (c) use of security personnel, such as door supervisors, licensed by the Security Industry Authority (recognised by the Community Safety Strategy).

### **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)
- 4.8 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.

### **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;

### **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: 06.01.2009

### **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: 05.01.2009

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 – Brighton & Hove City Council - Cumulative Impact Area.
2. Appendix B – Brighton & Hove City Council – Special Stress Areas.
3. Appendix C – Measures to be considered in SSAs.
4. Appendix D – Map of area.
5. Appendix E – Plan of Premises.
6. Appendix F – Part P of the New Premises Licence Application and supporting letter from agent concerning Cumulative Impact.

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

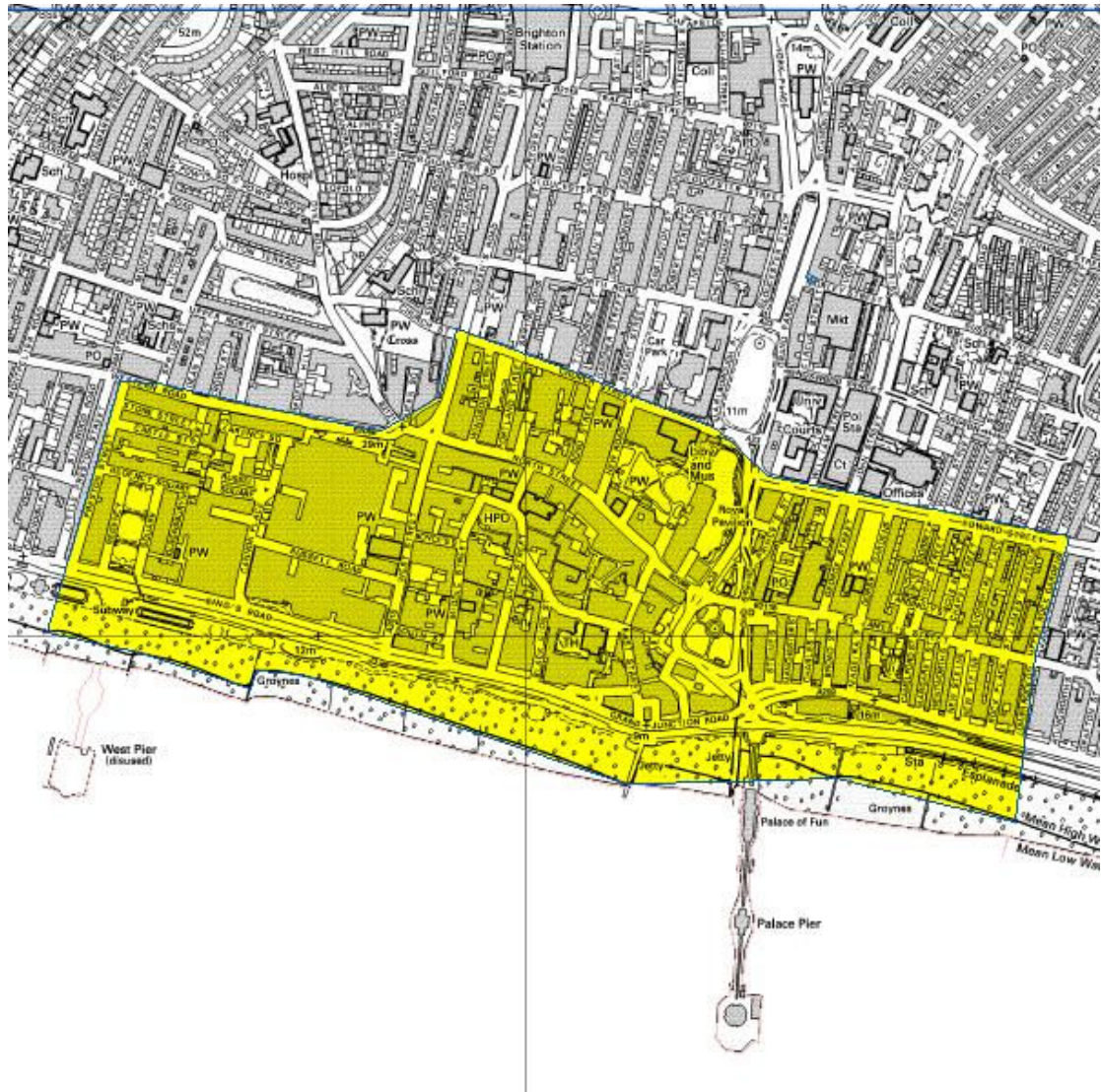
1. Environmental Health & Licensing Service, Brighton & Hove City Council (2008): The Licensing Act 2003 – Brighton & Hove City Council: Statement of Licensing Policy.

### **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

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

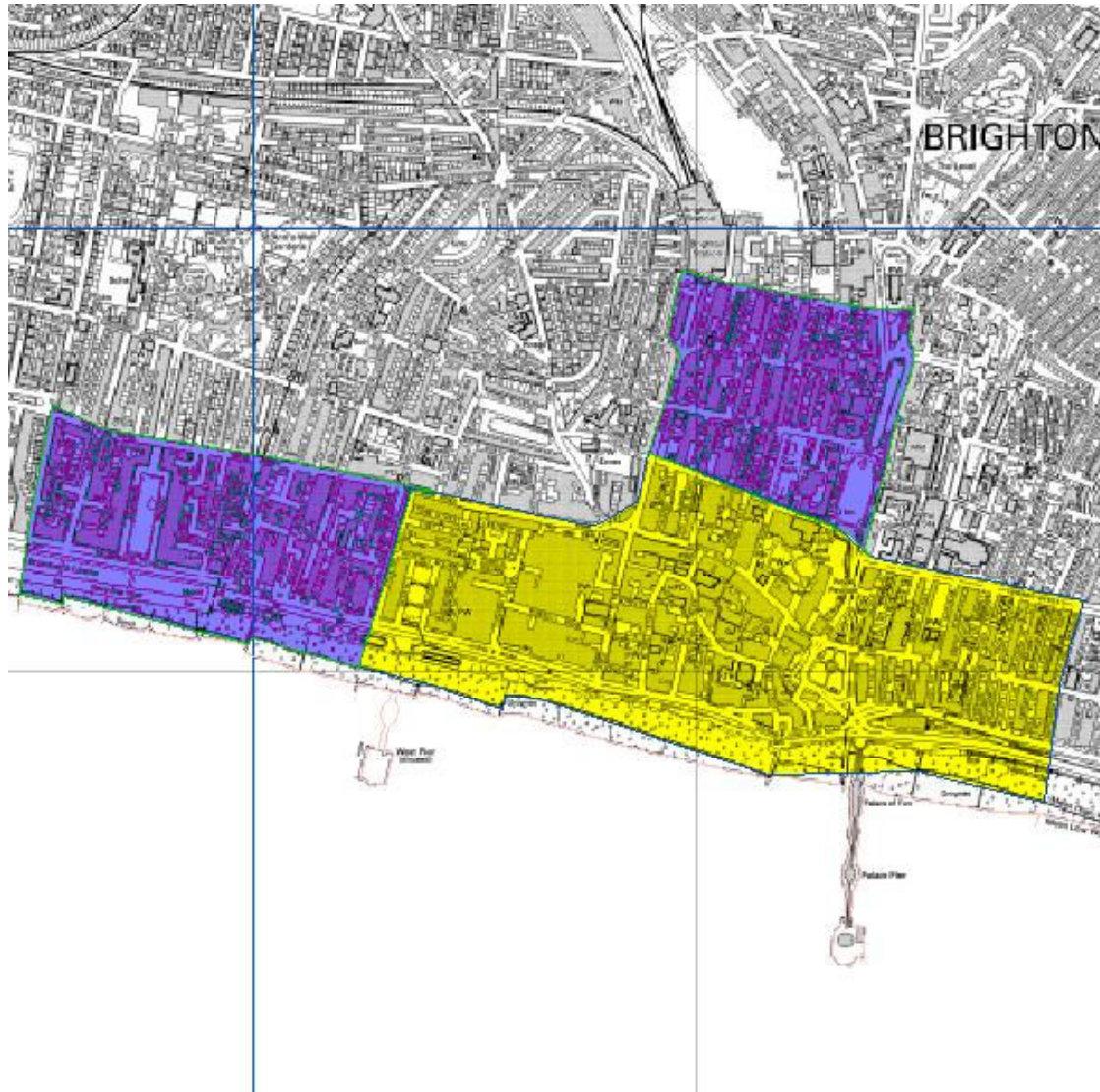


The Cumulative Impact Area comprises the area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Spring Street to the junction with the west side of Dyke Road at its eastern end; from there, north-east to the junction of the north side of Ayr 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 B

### 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 C

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 -

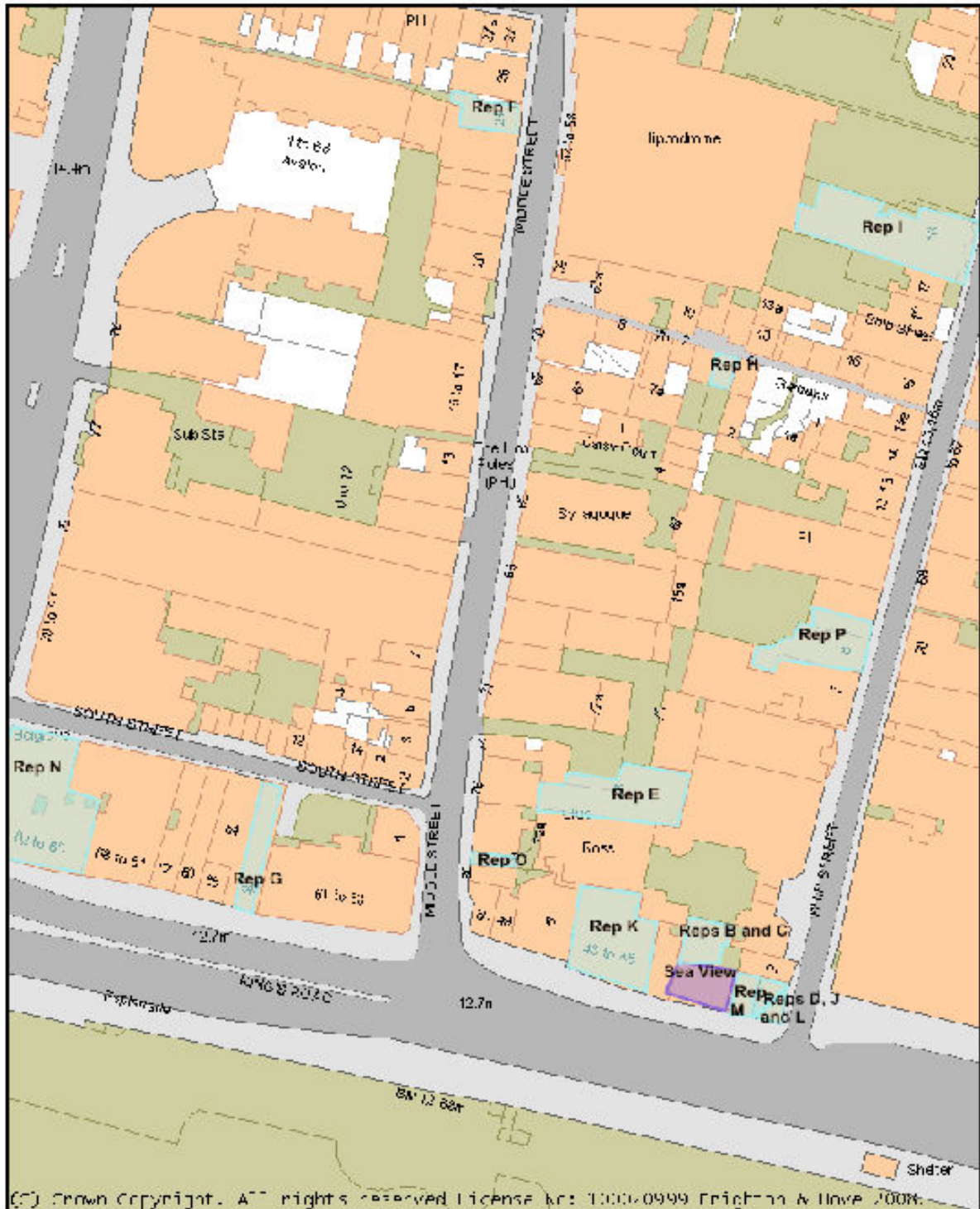
- membership of Brighton Crime Reduction Partnership, Pubwatch, Neighbourhood Watch or similar schemes
- use of ‘nightsafe’ radio system or similar accredited scheme
- regular training and reminders for staff in respect of licensing legislation, policies and procedures; records of which should be properly 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

APPENDIX D

Sea View Convenience Store, 41 Kings Road, Brighton, BN1 1NA



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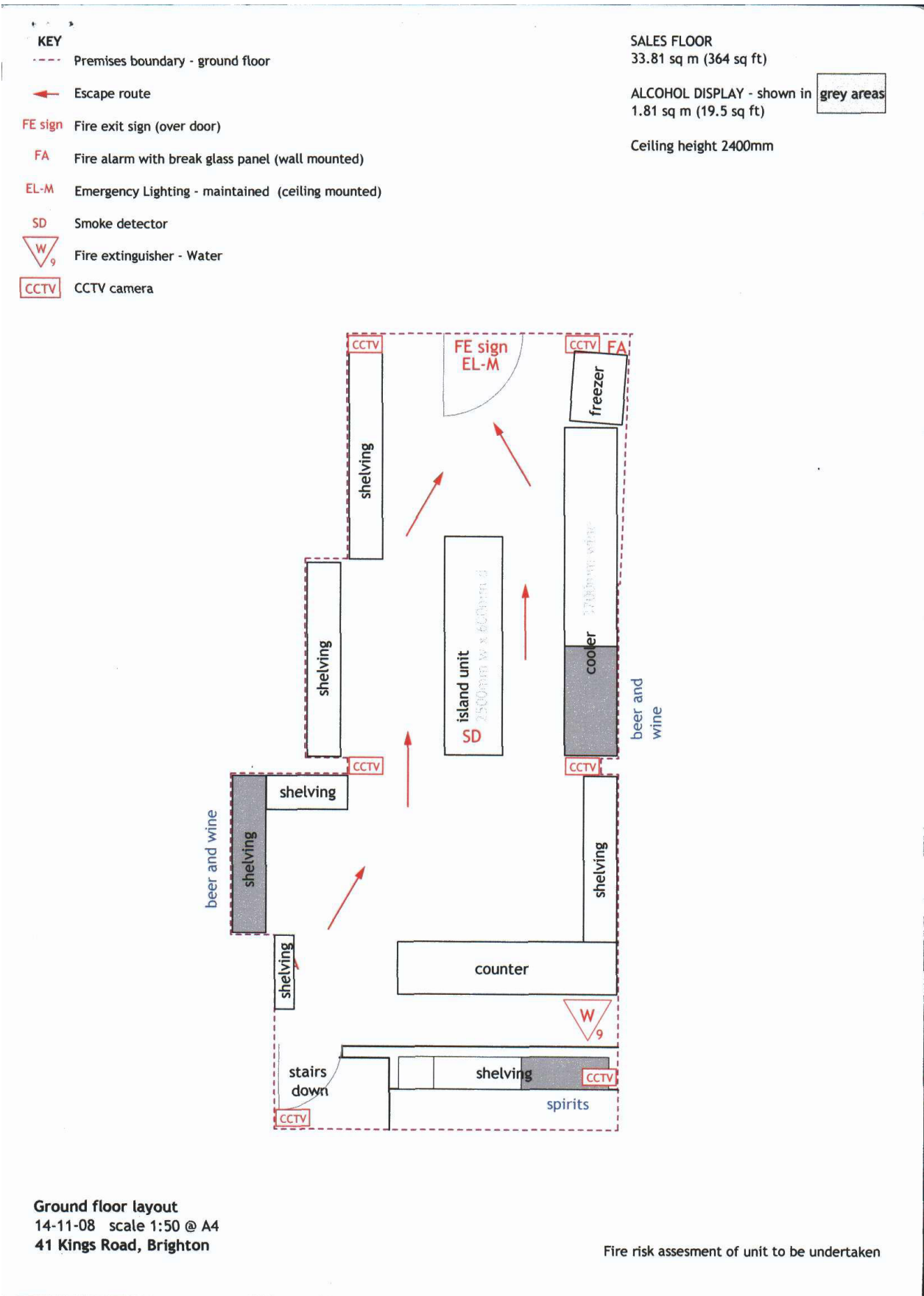


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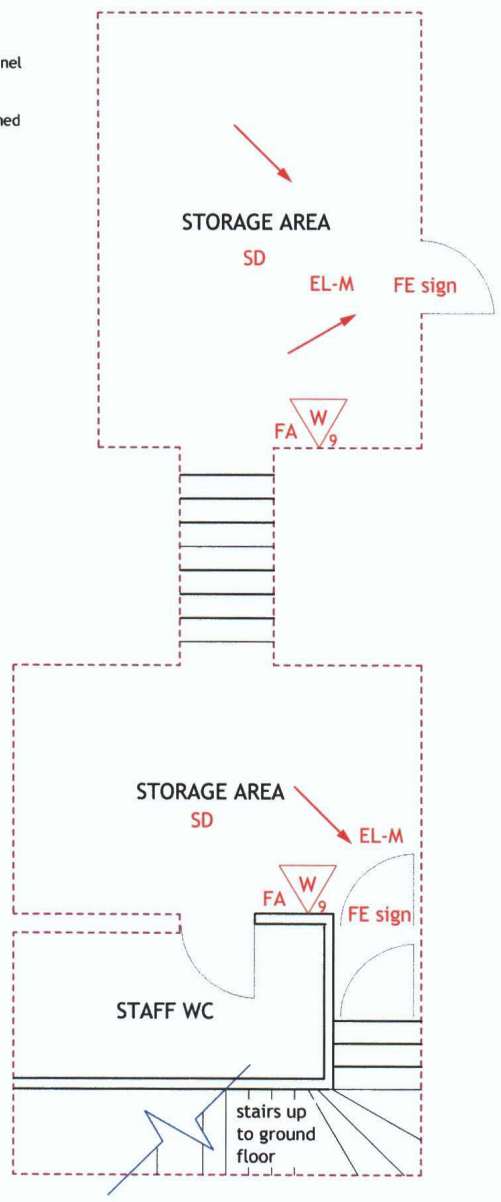


# APPENDIX E



- KEY**
- Premises boundary - basement
  - ← Escape route
  - FE sign** Fire exit sign (over door)
  - FA** Fire alarm with break glass panel (wall mounted)
  - EL-M** Emergency Lighting - maintained (ceiling mounted)
  - SD** Smoke detector
  - W<sub>9</sub>** Fire extinguisher - Water
  - CCTV** CCTV camera

**STORAGE AREA**  
 261.48sq m (24.9 sq ft)  
 Ceiling height 2150mm



THE STORAGE AREA SHOWN IS AS PERMITTED BY THE FIRE OFFICER

All doors shown on the basement plan are fire doors.

A fire risk assesment of unit is to be undertaken

**Basement layout**  
 14-11-08 scale 1:50 @ A4  
 41 Kings Road, Brighton

## APPENDIX F

**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)

TO KEEP A SAFE ENVIRONMENT WITH THE USE OF CCTV AND SECURITY COVER, AND TO PROTECT CHILDREN FROM HARM BY STORING ALCOHOL OUT OF THEIR REACH AND COVERING UP ANY ADULT MATERIAL

**b) The prevention of crime and disorder**

CCTV THROUGHOUT STORE  
AT PEAK TIMES, MAY INVOLVE DOOR SUPERVISORS FROM WASHINGTON STATE SECURITY LTD.

**c) Public safety**

ID CHECKING AS STANDARD PROCEDURE  
CCTV THROUGHOUT STORE

**d) The prevention of public nuisance**

SECURITY CONTACTS  
CCTV

**e) The protection of children from harm**

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Our Ref: ES/39266/SHAKIR

Emma Snell Ext 246  
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Brighton & Hove City Council  
Licensing Department  
Bartholomew House  
Bartholomew Square  
Brighton  
BN1 1JP

Tuesday, 09 December 2008

Dear Sirs

**RE: Sea View Convenience Store**

We act for the applicant in this matter.

Please find enclosed a document referring to the Cumulative Impact Policy adopted by Brighton & Hove City Council. We failed to include this in our application sent to you on 25 November 2008 but wish for it to be added to our application now. We understand from a telephone call to you on 28 November that this would not be a problem.

We have also sent copies of this document to all relevant authorities.

Yours faithfully

**ENGLEHARTS SOLICITORS**  
Enc.

Partners: David Englehart Redmond Nari  
Consultant Solicitor: Brendan Noonan  
Head of Private Client: Jacqueline D'Hazzard  
Conveyancer: Josie Flint

Solicitors: Kent Reynolds Rachel Gerber Pravin Jugdaohsingh Jamela Collins Mark Scott  
Legal Executive: Peter Harris  
Licensing Executive: Emma Snell

Regulated by the Solicitors Regulation Authority

Application for a premises licence to be granted -  
Applicant – **Nagy Shakir**  
Premises – **Sea View Convenience Store, 41 Kings Road, Brighton, BN1 1NA**

11 DEC 2008

*We wish to include this document in our application for a new premises licence.* Safety & Licensing

*We have been informed that we did not refer to the Brighton & Hove City Council's Cumulative Impact Policy in our application and we understand that this is now a requirement.*

*We apologise for our earlier omission and hope that this document will satisfy this requirement.*

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### **Cumulative Impact Policy**

Our client is aware of this Policy and has read the literature available on the BHCC website. Our client is also aware that the area his premises is situated is a Special Stress Area. Our client has been improving and preparing the premises to be a 24 hour convenience store that includes the sale of alcohol.

Our client has incorporated the following to enable him to promote the four objectives in the BHCC licensing guidelines and consider the Cumulative Impact Policy:

1. Our client has installed CCTV in six different points within the store.
2. Our client has built shelving and boxed coolers to store beer and wine. The spirits are to be kept behind the counter at all times.
3. There is no alcohol stored at the front of the store.
4. Our client is prepared to enter into a contract with a Security Firm (he is in talks with Washington State Security Limited) to enable him to have door supervisors at peak times during the night.
5. Our client is happy to adopt the "Challenge 21" policy and will obtain machines which also detect fraudulent ID cards.
6. All purchases of alcohol will be put into brown paper bags for consumption away from the premises
7. Our client will adopt the use of a refusals book for registering attempts to buy alcohol by under-age persons or refusals to those intoxicated.
8. Policies for dispersal of customers will also be adopted to include signage regarding taxi services and advice to respect neighbours and minimise noise.

Our client will also consider the following items –

1. Membership of Brighton Crime Reduction Partnership, Neighbourhood Watch or similar schemes;
2. Use of 'night safe' radio system or similar accredited scheme;
3. Regular training and reminders for staff in respect of licensing legislation, policies and procedures, records of which will be recorded and available for inspection.

Our client feels that his premises will not add to the cumulative impact already being experienced because he is prepared to incorporate all the above, consider further conditions if necessary and work alongside the Council, Police and Residence to promote the licensing objectives as well as run his business to make a living.