

Brighton & Hove City Council
For general release

Meeting: Licensing Sub-Committee

Date: 19th May 2006 Brighton Town Hall at 14:00 hrs

Report of: Assistant Director – Public Safety

Subject: Application for a variation to a premises licence, granted under the Licensing Act 2003

Premises: Waves Café 6 - 7 - 8 Madeira Drive, Brighton, East Sussex, BN2 1PS

Applicant: Waves Of Brighton Ltd, 34 Widdicombe Way, Brighton, BN2 4TG

Ward affected: Queen's Park

1. Purpose of the report

- 1.1 To determine an application for a variation to a premises licence.

2 Summary of application

The application is to vary a premises licence.

- 2.1 The variation is described by the applicant as :

'Remove the current restrictions of the hours so as to include the hours 0800 to 2300 every day of the week for the sale of alcohol, remove the embedded restrictions from the licence carried over from the Justices' Licence, amend the Café Bar conditions so as to clear up the conditions and restrictions and allow 'off sales' to be taken away from the premises under limited conditions'

2.1 Summary table of existing and proposed activities

	Existing	Proposed
A Plays	None	none
B Films	None	none
C Indoor sporting Events	None	none
D Boxing or Wrestling	None	none
E Live music		none
F Recorded Music		none
G Performance of Dance	None	none
H Anything of a similar description within e, f ,or g	None	none
I Provision of facilities for making music	None	none
J Provision of facilities for dancing	None	None
K Provision of facilities for entertainment of a similar description to that falling with in i or J	None	None
L Late Night Refreshment	None	None
M Supply of Alcohol	Sunday 12:00 – 22:30 Monday to Saturday 10:00 – 23:00 Christmas Day 12:00 – 15:00, 19:00 – 22:30 Good Friday 12:00 – 22:30 New Year's Eve : 10:00 – 00:00 New Year's Day 00:00 – 23:00	Monday to Sunday 08:00 – 23:00 PLUS New Year's Eve : 10:00 – 00:00 New Year's Day 00:00 – 23:00
O Hours premises are open to public	As above plus 20 mins drinking up time	Monday to Sunday 08:00 – 23:30 PLUS New Year's Eve : 10:00 – 00:00 New Year's Day 00:00 – 23:30
P Conditions removed as a consequence of the proposed Variation	Restrictions on current hours, embedded restrictions imposed from the old justices licence and remove references to Children's certificates, to amend the current Café Bar conditions so as to allow alcoholic drinks to be taken away from the premises	

3. Representations received

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

- a) One (1) representations was received from a local business.
- b) The representation relates to concerns over the anticipated impact possible public nuisance and crime and disorder.

4. 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.

1.4 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

1.14 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 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the licensing authority can take into account. 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.

The licensing authority may receive representations from either a responsible authority or an interested party, (both of which are defined in the Act), that the cumulative impact of new licences is leading to an area becoming saturated with premises of a certain type, making it a focal point for large groups of people to gather, and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases the issue of cumulative impact can be taken into account when considering the individual merits of an application.

Any objection to a licence application on the grounds of cumulative impact must be supported by clear evidence that one or more of the Licensing Objectives are likely to be undermined.

The licensing authority will not operate a quota of any kind, which would predetermine any application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres and other clubs may all sell alcohol, serve food and provide entertainment but with contrasting styles and

characteristics. Proper regard will be given to those differences and the differing impact they are likely to have on the local community.

2.5(a) 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(c) 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 of legal requirements to prohibit sales of alcohol to those intoxicated will be supported.

In respect of the prevention of public nuisance

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, or as a result of people entering or leaving the premises.

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.

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.

4.6 Generally permitted temporary activities in the open air including tents and marquees should have a maximum closure hour of 11.00pm. Earlier hours may be imposed in sensitive open spaces or near residential areas.

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.

In respect of the prevention 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 the following:

- Driving Licence
- Passport
- Citizens Card
- Connexions Card
- Validate Card
- Portman Card

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.

5.3 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 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. 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.

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.