

Brighton & Hove City Council

For general release

Meeting: Licensing Sub-Committee

Date: 22nd August 2006

Report of: Assistant Director – Public Safety

Subject: Application for a Variation of a Premises Licence under the Licensing Act 2003 –

Applicant: Franky & Johnny Café Bar Ltd Caudie Hse High St Henfield BN5 9DQ

Premises: Copacabana (previously known as Franky & Johnny) 35 Queens Road Brighton BN1 3XB

Ward(s) affected: - St Peter's And North Laine

1. Purpose of the report

1.1 To determine an application for a variation of a premises licence.

2. Summary of application

2.1 The application is for:

A variation for the premises licence already granted under the Licensing Act 2003.

The variations proposed:

- To remove all the embedded restrictions from the existing premises licence and to change the nature of the premises to a cafe/bar style operation with extended hours of operation up until 02.00 and to allow both recorded and some live music to be played with the continued sale of late night refreshments.

Case Officer: Martin New

2.2 Summary table of existing and proposed

2.2

	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	Licensing Act 1964 Sec 182 Two performers	Monday – Sunday 08.00 – 02.00 Although asked for the maximum time it is more realistic to expect playing to occur with 2 – 3 musicians during the evening some time between 21.00 and 01.00
F Recorded Music	Licensing Act 1963 sec 182 music provided by recorded sound ancillary to alcohol sales	Monday – Sunday 08.00 – 02.00 Background music in keeping with the ambience of the premises will be played throughout the day with perhaps a DJ supplementing it on odd occasions during the week from 21.00 – 01.00 at all times under strict control of the management.
G Performance of Dance	None	None
H Anything of a similar description within e, f ,or g	None	Monday – Sunday 08.00 – 02.00 Possibly a DJ or the live musicians Unlikely to be for long periods
I Provision of facilities for making music	None	Monday – Sunday 08.00 – 02.00 An in house amplification system with associated equipment fully under the control of the management

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	The Licence may also provide and permit the consumption of late night refreshment for a period of 30 minutes after the permitted hours set out above, and on New Years Eve until 5am on New Years Day.	Monday – Sunday 23.00 – 02.30 Substantial food in line with the conditions for a Café Bar including some take away

<p>M Supply of Alcohol</p>	<p>1. Permitted Hours</p> <p>Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means:</p> <ul style="list-style-type: none"> a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10 a.m. to 11 p.m. b) On Sundays, other than Christmas Day or New Year's Eve, noon to 10.30 p.m. c) On Good Friday, noon to 10.30 p.m. d) On Christmas Day, noon to 3 p.m. and 7 p.m. to 10.30 p.m. e) On New Year's Eve, except on a Sunday, 10 a.m. to 11 p.m. f) On New Year's Eve on a Sunday, noon to 10.30 p.m. g) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day. <p>Licence Conditions</p> <ul style="list-style-type: none"> 1. The sale and consumption of intoxicating liquor and other beverages shall be by way of waiter/waitress service to persons seated at tables. 2. Substantial refreshment (food) shall be available at all times. 3. Crime Prevention and security measures to be instigated throughout the premises following consultation with Sussex Police. 4. CCTV monitors and 	<p>Monday – Sunday 08.00 – 02.00 Seasonal variation for New Years Eve</p>
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O Hours premises are open to public	As above plus 20 mins drinking up time	Monday – Sunday 08.00 – 02.30
P Conditions removed as a consequence of the proposed Variation	All Embedded restrictions carried over from the old justices licence on transition	

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) A number of representations have been received relating to the anticipated negative impact of the proposed variation in respect of public nuisance.
 - b) Comments from the Pollution team:- The Pollution team have made a representation in relation to public nuisance.

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 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.

4.4 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.

4.5 Staggered closing times will not be used to combat binge drinking disorder and antisocial behaviour. Zoning will be avoided. A general principle of later opening so that customers can leave for natural reasons, slowly over longer periods will be promoted, to prevent unnatural concentrations of people. The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.

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 Live music, Dancing and Theatre

7.1 This policy recognises the need to encourage live music, dancing and theatre for the wider cultural benefits of the community generally. In addressing such issues the potential for limited disturbance in neighbourhoods will always be carefully balanced with these wider benefits, particularly for children. The impact of licensing on regulated entertainment, particularly live music and dancing, will be monitored. Where indications are that such events are being deterred by licensing requirements, the policy will be revisited with a view to investigating how such situations might be reversed.

7.2 The Licensing Committee represents the general interests of a community. In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives. The Licensing authority is aware of the need to avoid measures which deter live music, dancing and theatre - such as imposing indirect costs out of proportion to the income of the licence holder and to the risks presented. Only necessary, proportionate and reasonable licensing conditions should impose any restrictions on such events.

