

## Brighton & Hove City Council

For general release

**Meeting:** Licensing Sub-Committee

**Date:**

**Report of:** Assistant Director – Public Safety

**Subject:** Application for a premises licence to be granted under the Licensing Act 2003 – Waves, 99 Church Road, Hove

**Applicant:** Hi Kunj Ltd, 99 Church Road, Hove

**Ward(s) affected:** Central Hove

### 1. Purpose of the report

1.1 To determine an application for a premises licence.

### 2. Summary of application

2.1 The application is for a premises licence for the sale of alcohol, the provision of late night refreshment, the provision of recorded music and the provision of facilities for making music.

2.2 Summary table of proposed activities

	Existing	Proposed
<b>Recorded Music</b>		Indoors. The premises is partly a restaurant and recorded music will be played incidental to the customers consuming meals. At all times it will remain under the control of the management. Every day 8.00 – 24.00. Seasonal variation: New Years Eve (no hours specified).
<b>Provision of facilities for making music</b>		Indoors. There will be an in house amplifier system with the associated speakers under full control of the management at all times. The system is used to provide quiet background music for customers. Every day 8.00 – 24.00. Seasonal variation: New Years Eve (no hours specified).

<b>Late Night Refreshment</b>		Indoors. The premises is partly a restaurant serving snacks and light meals and food will be available up until close with last orders half an hour beforehand. Every day 23.00 – 00.30. Seasonal variation: New Years Eve (no hours specified).
<b>Supply of Alcohol</b>		On and off the premises. Off sales will cease at 22.00 every day. Every day 8.00 – 24.00. Seasonal variation: New Years Eve (no hours specified).
<b>Hours premises are open to public</b>		Every day 8.00 – 00.30. Seasonal variation: New Years Eve (no hours specified).

### **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 relevant representation has been received from two residents living in the vicinity of the premises on the grounds of public nuisance from noise resulting from music and the protection of children from harm.

### **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.

4.3 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.

4.5 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 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.

*Case Officer: Keith Mitchell*