

Brighton & Hove City Council

For general release

Meeting: Licensing Sub-Committee

Date: 7th July 2005

Report of: Assistant Director – Public Safety

Subject: Application for a variation under transitional arrangements of the Licensing Act 2003 – Odeon Cinema, West Street, Brighton

Ward(s) affected: Regency

1. Purpose of the report

- 1.1 To determine an application for a premise licence and, if the decision is to grant the licence, to attach suitable conditions to ensure the licensing objectives are met.

2. Summary of application

- 2.1 The application is for:

A variation for the premises licence already granted under 'grandfather rights'.

The variations proposed:

- 'Late night refreshment licence required, ancillary to regulated entertainment for the provision from 23:00 to 05:00 hrs, using tables and chairs outside the premises on the southern frontage (seafront parade)
- Extend film exhibition hours to 24 hours seven days a week.
- Extend the provision of live music beyond that currently permitted beyond section 19 of the Cinemas Act, for example live music played to a seated auditorium, to extend to 24 hours
- Remove application of the Cinematography (Safety) Regulations 1955 and replace with relevant conditions contained in the guidance to section 182 Licensing Act 2003'

- 2.2 Summary table of existing and proposed activities

| | Existing | Proposed |
|-------------|---|---------------------------------------|
| Films shown | Sunday to Thursday 09:00 hrs to 23:00 hrs, and Fridays and Saturdays 09:00 hrs to 03:00 hrs the following morning | To extend to 24 hours / 7 days a week |

| | | |
|------------------------|---|--|
| Sale of alcohol | Monday to Saturday 10:00 hrs to 23:00 hrs Sunday and Good Friday 12:00 hrs to 22:30 hrs Christmas Day : 12:00 hrs to 15:00 hrs, and 19:00 hrs to 22:30 hrs | No changes proposed |
| Live music | To seated audience ... | to extend to 24 hours |
| Late night refreshment | None | 23:00hrs to 05:00 hours, 7 days a week, to include outside, on southern frontage |

3. Representations received

3.1 Details of the representations made are on form L57a (Appx.1) and a summary appears below:

- a) Door Supervisors – there is no mention of them in the application, and Sussex Police request that they are provided with the requirements in the pool of conditions on a Thursday, Friday and Saturday between the hours of 2200 and 0800.. in the interests of prevention of crime and disorder.
- b) Sussex Police request that, in relation to admission of under 16s, the condition be that no unaccompanied children under the age of 16 to be on the premises after 23:00 hrs until closure.

A copy of the letter sent from Sussex Police to Mr Greg Wilson, General Manager of the Odeon Cinema, West Street, Brighton, is attached for your information as Appendix I

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
 - (e) 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.

2.5(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.

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).
- (d) requirement of a minimum of a licensed door supervisor for every 100 customers in nightclubs and large city centre pubs or as indicated by risk assessment.
- (e) occupant capacity conditions will be applied where appropriate.
- (f) the provision of designated and suitably trained first aiders

In order to minimise disputes and the necessity for hearings, it would be sensible for applicants to consult with all responsible authorities when operating schedules are being prepared.

3.3 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 as recognised by the Community Safety Strategy and Policing Strategy. Applicants may be required to consult local transport operators

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.

4.7 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.

5.4 Licensees of premises giving film exhibitions will be expected to include in their operating schedules arrangements for restricting children from viewing age restricted films. Such premises will be subject to a mandatory condition requiring that access will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification, or in specific cases where such certificates have not been granted, the licensing authority. The licensing authority does not intend to adopt its own system of film classification.

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.

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.

COMMITTEE REPORT APPENDIX

REPRESENTATION NOTIFICATION

ADDRESS OF PREMISES AND TRADE NAME Odeon Cinema, West Street, Brighton, BN1 2RE
TYPE OF APPLICATION Variation of a Premises licence
APPLICANT(S) Odeon Cinemas Limited
APPLICANT'S ADDRESS Odeon Cinemas Limited, 54 Whitcomb Street, London, WC2H 7DN

DETAILS OF APPLICATION

SUMMARY OF EXISTING CONDITIONS Films shown :
Sunday to Thursday 09:00 hrs to 23:00 hrs, and
Fridays and Saturdays 09:00 hrs to 03:00 hrs the following morning

Sale of alcohol :
Monday to Saturday 10:00 hrs to 23:00 hrs
Sunday and Good Friday 12:00 hrs to 22:30 hrs
Christmas Day : 12:00 hrs to 15:00 hrs, and
19:00 hrs to 22:30 hrs

DETAILS OF REPRESENTATIONS RECEIVED

NO. OF OBJECTIONS: 1

SUBSTANCE OF OBJECTIONS: Sussex Police request that Door Supervisors – are provided with the requirements in the pool of conditions on a Thursday, Friday and Saturday between the hours of 2200 and 0800.. in the interests of prevention of crime and disorder.

Sussex Police request that, in relation to admission of under 16s, the condition be that no unaccompanied children under the age of 16 to be on the premises after 23:00 hrs until closure.

CONTACT OFFICER: Stuart Harley

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|--------------------|
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Any representation(s) will automatically be heard by a Licensing sub-committee and all interested parties may be heard. Dates and times of such committees will be notified to

you in due course. Should the parties involved resolve the issues and the representation(s) is/are withdrawn there will be no need for a hearing.

L57a

APPENDIX I

TEXT of the letter sent from Sussex Police to Mr Greg Wilson, General Manager of the Odeon Cinema, West Street, Brighton, is attached for your information as Appendix I

Brighton & Hove Licensing Unit
Brighton Police Station
John Street
Brighton
BN2 0LA

Tel: 01273 66 59 43
Fax: 01273 66 55 24

Email: david.bateup@sussex.pnn.police.uk

22nd June 2005

Mr Greg Wilson
General Manager
Odeon Cinema
Kings West
West Street
BRIGHTON
BN1 2RE

Dear Greg,

Licensing Act 2003 application

Further to our meeting at your premises yesterday morning, I have now had the opportunity to review and discuss the various matters raised in relation to your new licence application in more detail.

The placing of tables and chairs outside. You have confirmed to me that in fact the tables and chairs are already removed during the early evening anyway. We have agreed that the application will be amended to state that the tables and chairs will be cleared away off the street and stored by 21:00 hrs.

CCTV. I am happy that your existing CCTV coverage is adequate, with the exception of the alleyway and pedestrian area leading to the West Street entrance. We have agreed that a further CCTV camera will be installed on the exterior of the building facing east along the side of the building, and that it will be placed at a height so it is out of reach of potential vandals etc. We have agreed that PIR controlled lighting will be installed in this area to increase public safety. We concede that controlled or closed access to the alley-way will be very difficult to achieve legally, and may create an emergency evacuation hazard.

With reference to door supervisors, I will in the circumstances repeat here the stance taken by Inspector Whitehead: 'There is no mention of them [door supervisors] in the application and we would request that they be provided in line with the requirements in the pool of conditions on a Thursday, Friday and Saturday between the hours of 22:00 and 08:00. This is in the interests of the prevention of crime and disorder, public safety and the prevention of public nuisance [which are three of the licensing objectives, and we can include all four with the protection of children from harm]. The door supervisors will assist with ensuring drunk people or drug dealers do not enter the premises especially after other entertainment venues have closed. We envisage disorder in the eating areas or darkened screens with these people. They could assist to ensure patrons leave the premises in an orderly manner.'

You have already said to me during our meeting that Kerragh Security already provide door supervisors from 17:00 hours each day and play an integral part in your locking up procedure. However you do not want the door supervisor requirement to be part of your new licence conditions.

You have referred me to an observation by Mr Ford at your organisation, in which Mr Ford expresses his interpretation of S.21(2)(a) of the Licensing Act 2003 as being that we cannot impose a condition re the provision of door supervisors on cinema premises. Mr Ford also states 'The Police objection only relates to activities after 23:00 hrs. Given that we do not intend to open the alcohol sales area beyond 23:00 hrs the objection (door supervision) is not relevant to alcohol sales'.

Firstly I would like to deal with interpretation of S.21 (1) of the Licensing Act 2003. In my view, S21.(1) of the Act provides that where there is a condition on a premises licence requiring door supervisors, then there must also be a condition that door supervision is undertaken by SIA registered staff. However, this 'automatic add on' does not apply, because of S21.(2)(a), in the case of cinemas. However, this DOES NOT prevent the imposition of a requirement for door supervisors in cinemas itself. Nor does it prevent a requirement that those door supervisors should be SIA registered if, on the facts, that is thought to be necessary. All S.21(2)(a) says is that the requirement in S.21(1) does not make the requirement for SIA registered staff to be automatic as it would be in any other premises.

Therefore, there is nothing in this section to prevent the Police from asking the Council Licensing Committee to impose a Condition that the Odeon deploy SIA registered door staff if that is, in our opinion, what is required by the circumstances.

May I also refer you to S7.71 of the DCMS Guidance issued under S.182 of the Licensing Act 2003. The last sentence of the paragraph states 'The Secretary of State recommends that such premises [cinemas and theatres] should not normally require door supervision by individuals registered with the SIA in such premises, but the circumstances of all applications should, of course, be considered individually'. I would respectfully suggest that this sentence confirms my interpretation of S.21 as being correct.

Now we move on to consider your Odeon Cinema individually, and more to the point, we must consider the LOCATION of your premises. Your main entrance is in West Street, which I am sure you don't need reminding is very much the hub of alcohol related violent crime in Brighton City centre. There is a concentration of large pubs and clubs in West Street and down under the seafront arches, and as we all know, the main

entrance and exit to Event II, probably our biggest night club in Brighton, is a mere twenty five metres or so from your front door.

Our concern is that aggressive drunks, drug dealers and takers and 'undesirables' in general will be attracted to your premises throughout the late evening and night time. This potentially can place both your staff and your customers at risk, and the most simple and effective way of dealing with this potential threat is with SIA trained and licensed door supervisors to control access to your premises. With the greatest respect to Mr Ford, it is not your bar we are worried about, it is the bars outside of your premises and an element of their clientele that provide the security and safety threat to you and your customers.

Therefore I must confirm that the Police will be maintaining their position on the issue of SIA door supervisors being in place at the Odeon after 22:00 hrs, and that if necessary we will be prepared to take the matter to a Council Licensing Committee for a final decision, in the event that we cannot come to an agreement on the issue beforehand.

I have discussed the issue of a door supervisor outside of your internal bar with Inspector Whitehead, and we have agreed that we will not be requiring a door supervisor to be positioned directly outside of the internal bar due to its relatively small size, providing that SIA registered door supervisors are placed on the main entrance.

As you have an entrance in West Street and a further entrance on the seafront road, you might like to give some consideration to closing the seafront entrance after say 22:00 and controlling entrants via the West Street entrance only?

With reference to the issue of unaccompanied children under 16 in the premises after 22:00, you have asked me if there can be a concession on this issue as this conflicts with the British Board of Film Classification '15' film certification. Again we can draw a parallel here with the alcohol issue, and stress again that we are primarily concerned with the risk to children outside of your premises as opposed to dangers inside. Our concern is with the potential safety risk to children under 16 going out into West Street and the town centre late in the evening unaccompanied by an adult, after attending your Cinema to see a film. We have no problem with children being admitted if accompanied by an adult, but the safety concerns for potentially vulnerable unaccompanied children remain if they are going to wander out into West Street after 23:00. Our request in relation to admission of under 16s will now be amended to 'No unaccompanied children under the age of 16 to be on the premises after 23:00 hrs until closure'. You will note that I have given you a partial concession here as my initial request was for 22:00. I must stress however that the no under 16s after 23:00 applies both to existing unaccompanied under 16s already in the premises as well as no further admission of unaccompanied under 16s after 23:00. Accordingly you will have to give some consideration to planning how you are going to identify under 16s already in the premises when 23:00 comes.

With reference to the hosting of music events in the future, each individual event will have to be considered on its own individual circumstances and the nature of the musical entertainment and accompanying audience profile. For example, a classical concert may in theory present less of a security and safety risk than a hip hop dance event. I

have suggested as a minimum starting point that door supervisors on a ratio of one per hundred attendees should be required. I would suggest that in the circumstances we simply insert a condition in the new licence which would place an obligation on the Cinema to consult and liaise with Sussex Police Licensing prior to all non standard entertainments (especially dance or music events at the Cinema) with regard to security and Policing arrangements. We can then look at each event on its own merits.

I look forward to receiving your further comments and observations on the above points as soon as possible. Hopefully we will be successful in agreeing mutually agreeable conditions on the new licence without the need for a Committee hearing.

Yours sincerely,

David Bateup
Licensing Officer
Licensing Unit
Brighton Police Station

cc: Mrs Jean Cranford, Brighton & Hove City Council