

Brighton & Hove City Council

For general release

Meeting: **Licensing Sub-Committee**

Date: 9th September

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

Subject: **Application for a variation under transitional arrangements of the Licensing Act 2003**

Premises: **Brighton Rocks, Rock Place, Brighton, BN2 1PF**

Applicant: **Brighton Rocks Ltd, Brighton Rocks, Rock Place, Brighton, BN2 1PF**

Ward affected: **Queen's Park**

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

The variations proposed:

- To permit the playing of background music, live music, acoustic and amplified voice, occasional DJ's – up to 12 times per year
- To extend the hours for the provision of alcohol
- To extend the hours of operation of the premises

2.2 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	Licensing Act 1964 Sec 182 Two performers	To permit acoustic or amplified (jazz/singing) on limited occasions for short periods of time with a maximum of 4 performers. Monday - Sunday: 12.00 - 22.00. PLUS: New Year's Eve - possible later finish just after midnight.
F Recorded Music	Licensing Act 1963 sec 182 music provided by recorded sound ancillary to alcohol sales	Playing of recorded music during normal business or as part of functions. To reduce levels greatly at the end of alcohol sales to encourage gradual dispersal. Sunday - Thursday: 10.00 - 00.30, Friday - Saturday: 10.0 - 01.00. PLUS: New Years Eve - later hours.
G Performance of Dance	None	none
H Anything of a similar description within e, f ,or g	None	Limited to occasional DJ's and possible compere. Limited to special occasions e.g. compere hosting a charity auction. Sunday - Thursday: 10.00 - 00.30, Friday - Saturday: 10.00 - 01.00. PLUS: New Year's Eve - possibly later.
I Provision of facilities for making music	None	Amplification equipment for playing the current CD system and the occasional use of microphone. Used as and when required, at any time during opening hours. Sunday - Thursday: 10.00 - 00.30, Friday - Saturday: 10.00 - 01.00. PLUS: New Year's Eve - possibly later.
J Provision of facilities for dancing	None	No dance floor provided, however there is always the possibility of standing customers breaking into dance although this is strongly discouraged. Sunday - Thursday: 10.00 - 00.30, Friday - Saturday: 10.00 - 01.00. PLUS: New Year's Eve - possibly later.
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	To allow the continuation of meals and drinks served and possibly late night snacks during the wind down period. Sunday - Thursday: 23.00 - 00.30, Friday - Saturday: 23.0 - 01.00. PLUS: New Year's Eve - possibly later.
M Supply of Alcohol	1. Permitted Hours Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means: a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10:00 hrs to 23:00 hrs b) On Sundays, other than Christmas Day or New Year's Eve, 12:00 to 22.30 hrs c) On Good Friday, 12:00 to 22.30 hrs d) On Christmas Day, 12:00 to 15:00 hrs, and 19:00 hrs 22.30 hrs e) On New Year's Eve, except on a Sunday, 10:00 hrs to 23:00 hrs f) On New Year's Eve on a Sunday, 12:00 to 22:30 hrs 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.	Whilst the sale of alcohol in sealable containers for consumption off the premises will continue to be allowed throughout all these hours, the sale of alcohol to customers on the outside terrace will cease at 23.30 Monday - Sunday and customers will be asked to move inside after this time. Sunday - Thursday: 10.00 - 00.00, Friday - Saturday: 10.00 - 00.30. PLUS: New Year's Eve - later hours.
O Hours premises are open to public	As above plus 20 mins drinking up time	Sunday - Thursday: 10.00 - 00.30, Friday - Saturday: 10.00 - 01.30. PLUS: New Year's Eve - later hours.
P Conditions removed as a consequence of the proposed Variation	Remove all embedded restrictions inherent in the Licensing Act 1964. In particular the restriction on hours and limited entertainment permitted	

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) 1 (one) representation was received from a local resident, and 1 (one) from a local residents' association
- b) The representations relate to concerns over the anticipated negative impact of extended opening hours, noise levels and the prevention of 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.

4.3 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 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.

