

Brighton & Hove City Council

For general release

Meeting: Licensing Sub-Committee

Date: 21st October 2005

Report of: Assistant Director – Public Safety

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

Applicant: Spirit Group Limited

Premises: Stanmer Park, 292 Ditchling Road, Brighton BN1 6JG

Ward(s) affected: Preston 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:

- Extended opening times and alcohol sales
- Provision of regulated entertainment
- Provision of Late Night Refreshment
- Removal of embedded restrictions

Case Officer: Martin New

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	Public Entertainment Licence Monday – Saturday 10.00 – 23.00 Sunday 12.00 – 10.30	Monday-Wednesday: 10.00-00.00 Thursday: 10.00-01.00 Friday & Saturday: 10.00-01.30 Sunday: 10.00-00.30 Live entertainment of all descriptions as currently permitted under the Public Entertainment Licence. On St. David's Day, St. Patrick's Day, St. George's Day, and St. Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement with the police. For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local, national or international significance or for charitable events, limited to twelve per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the police.

F Recorded Music	<p>Licensing Act 1963 sec 182 music provided by recorded sound ancillary to alcohol sales.</p> <p>Public Entertainment Licence Monday – Saturday 10.00 – 23.00 Sunday 12.00 – 10.30</p>	<p>Monday-Wednesday: 10.00-00.00 Thursday: 10.00-01.00 Friday & Saturday: 10.00-01.30 Sunday:10.00-00.30</p> <p>The playing of all descriptions of amplified recorded music as permitted under the existing licence(s). Variation applies to hours of operation only.</p> <p>On St. David's Day, St. Patrick's Day, St. George's Day, and St. Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement with the police.</p> <p>For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local, national or international significance or for charitable events, limited to twelve per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the police.</p>
G Performance of Dance	<p>Public Entertainment Licence Monday – Saturday 10.00 – 23.00 Sunday 12.00 – 10.30</p>	None Stated

H Anything of a similar description within e, f ,or g	Public Entertainment Licence Monday – Saturday 10.00 – 23.00 Sunday 12.00 – 10.30	Monday-Wednesday: 10.00-00.00 Thursday: 10.00-01.00 Friday & Saturday: 10.00-01.30 Sunday: 10.00-00.30 Live entertainment as permitted under the existing licence(s), and karaoke. On St. David's Day, St. Patrick's Day, St. George's, and St. Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement with the police. For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and beyond these times. On occasions of local, national or international significance or for charitable events, limited to twelve per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the police.
I Provision of facilities for making music	None	None

J Provision of facilities for dancing	Public Entertainment Licence Monday – Saturday 10.00 – 23.00 Sunday 12.00 – 10.30	Monday-Wednesday: 10.00-00.00 Thursday: 10.00-01.00 Friday & Saturday: 10.00-01.30 Sunday: 10.00-00.30 Facilities for all descriptions of dancing as currently permitted by the entertainment licence at the premises. On St. David's Day, St. Patrick's Day, St. George's Day, and St. Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement with the police. For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local, national or international significance or for charitable events, limited to twelve per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the police.
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	<p>Monday-Wednesday: 23.00-01.00</p> <p>Thursday: 23.00-02.00</p> <p>Friday & Saturday: 23.00-02.30</p> <p>Sunday: 23.00-01.30</p> <p>On St. David's Day, St. Patrick's Day, St. George's Day, and St. Andrew's Day, the finish time will be extended by one hour beyond these times. On occasions of local, national or international significance or for charitable events, limited to twelve per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the police.</p>
M Supply of Alcohol	<p>1. Permitted Hours</p> <p>Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means:</p> <p>a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10 a.m. to 11 p.m.</p> <p>b) On Sundays, other than Christmas Day or New Year's Eve, noon to 10.30 p.m.</p> <p>c) On Good Friday, noon to 10.30 p.m.</p> <p>d) On Christmas Day, noon to 3 p.m. and 7 p.m. to 10.30 p.m.</p> <p>e) On New Year's Eve, except on a Sunday, 10 a.m. to 11 p.m.</p> <p>f) On New Year's Eve on a Sunday, noon to 10.30 p.m.</p> <p>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>	<p>Monday-Wednesday: 10.00-00.00</p> <p>Thursday: 10.00-01.00</p> <p>Friday & Saturday: 10.00-01.30</p> <p>Sunday: 10.00-00.30</p> <p>On St. David's Day, St. Patrick's Day, St. George's Day, and St. Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement with the police. For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and for Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local, national or international significance or for charitable events, limited to twelve per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the police.</p>

O Hours premises are open to public	As above plus 20 mins drinking up time 1	Monday-Wednesday: 9.00-01.00 Thursday: 9.00-02.00 Friday & Saturday: 9.00-02.30 Sunday: 9.00-01.30 On St. David's Day, St. Patrick's Day, St. George's Day, and St. Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement with the police. For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and for Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local, national or international significance or for charitable events, limited to twelve per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the police.
P Conditions removed as a consequence of the proposed Variation	To remove embedded restrictions and effects of sec 168 & 171 of the Licensing act 1964 so as to allow the provisions under the Licensing Act 2003 to apply in relation to children. To remove the restrictions on consumption of alcohol as set out in section 63 (1) Licensing Act 1964 (drinking up time) To remove restrictions on credit sales in place by section 166 Licensing Act 1964. To extend the terminal hour at the premises in respect of the sale of alcohol and other licensable activities	

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 large number of representations have been received relating to anticipated negative impact of extended opening hours on noise levels, prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.
 - b) Comments from pollution team no current involvement

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.

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.

5.3 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.

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.