

**Brighton & Hove City Council**

**For general release**

**Meeting:** Licensing Sub-Committee

**Date:** 23<sup>rd</sup> January 2006

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

**Subject:** Application for a premises licence to be granted under the Licensing Act 2003 – Preston Park, Preston Road, Brighton BN1 6SD

**Applicant:** Brighton & Hove City Council

**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:

the grant of a premises licence for the supply of alcohol and the provision of regulated entertainment.

2.2 Summary table of proposed activities

	<b>Proposed</b>
<b>Plays</b>	Indoors and Outdoors. Everyday 09.00 – 23.00 The venue may stage events that are wholly outdoors or contained within some form of structure. The East Sussex Act 1981 empowers the council to use each park of open space for a maximum of 28 days per calendar year for staging events. Of these days no more than six days can be Sundays. This application is therefore for a maximum of 28 days per annum. This is in line with the Council Outdoor Events Policy
<b>Films</b>	Outdoors. Everyday 09.00 – 23.00

<b>Live music</b>	Indoors & Outdoors. Everyday 09.00 – 23.00
<b>Recorded Music</b>	Indoors & Outdoors. Everyday 09.00 – 23.00
<b>Performance of Dance</b>	Indoors & Outdoors. Everyday 09.00 – 23.00
<b>Anything of a similar description</b>	Cabaret, street theatre, circus, funfair, community celebrations and exhibitions. Indoors & Outdoors. Everyday 09.00 – 23.00
<b>Provision of facilities for dancing</b>	Indoors & Outdoors. Everyday 09.00 – 23.00
<b>Supply of Alcohol</b>	11.00 – 23.00 Every Day
<b>Hours premises are open to public</b>	The venue is a free access public open space and does not have any hours when it is not open to the public. However, in line with the Council's Outdoor Events Policy, it is recommended that any events are finished by 23.00 with the audience being clear by 23.30.

### 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) One relevant representation has been received from a local resident relating to Public Nuisance especially noise from the set up of events and during events.

Pollution Team Comments :- Environmental Health have a history of noise complaints relating to events in Preston Park such as circuses, Pride and Party in the Park. These include complaints about loud music, fireworks, plant/machinery and noise from lorries.

In order to minimise the impact of such events on local residents the following addition to the applicants operating schedule have been agreed with the applicant prior to this hearing.

Section C. Replace Health Safety and Licensing with Environmental Health and Licensing.

Section D. add at the end of the first paragraph - Where events include the use of amplified sound and / or plant or machinery a noise management scheme will be submitted to the Environmental Health and Licensing Team 28 days in advance of the event or ( in the case of spontaneous or short notice events ) shortly after notice of an event is given to the licensee.

#### **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.

4.6 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.

*Case Officer: Martin New*