

Brighton & Hove City Council

For general release

Meeting: Licensing Sub-Committee**Date:** 27th September 2005 at 09:30 hrs Hove Town Hall**Report of:** Assistant Director – Public Safety**Subject:** Application for a variation under transitional arrangements of the Licensing Act 2003**Premises:** ARC, 162 Kings Road Arches, Brighton, BN1 1NB**Applicant:** C-side Ltd, Global House, High Street, Crawley, West Sussex, RH10 1DL**Ward affected:** Regency**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 extend the hours for the provision of alcohol
- To extend the hours of regulated entertainment
- To permit late night refreshment
- To remove restrictions/conditions contained in or attached to the public entertainment licence and section 77 special hours certificate

Case Officer: Stuart Harley

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	Monday to Saturday 11:00 – 04:00 Sunday 12:00 – 00:30 Bank Holiday Sunday 12:00 – 02:00 Capacity: Ground Floor 195, First Floor 270	'Provision of both amplified and non amplified live music at the management's discretion without 14 days prior notice to the police. Monday - Sunday: 00:00 – 23:59.'
F Recorded Music	Licensing Act 1964 sec 182 music provided by recorded sound ancillary to alcohol sales PLUS By virtue of the public entertainment licence to promote dancing : Monday to Saturday 11:00 – 04:00 Sunday 12:00 – 00:30 Bank Holiday Sunday 12:00 – 02:00 Capacity: Ground Floor 195, First Floor 270	'Amplified pre-recorded music at the management's discretion without 14 days prior notice to the police. Monday - Sunday: 00.00 - 23.59
G Performance of Dance	None	Provision of dance acts to both amplified and non-amplified live and recorded music at the management's discretion without 14 day's prior notice to the police. Monday - Sunday: 00.00 - 23.59.
H Anything of a similar description within e, f ,or g	None	The provision of compered charity and other events, comedy and other acts using amplified equipment at the management's discretion without 14 days prior notice to the police Monday - Sunday: 00.00 - 23.59
I Provision of facilities for making music	None	none
J Provision of facilities for dancing	By virtue of the public entertainment licence to promote dancing : Monday to Saturday 11:00 – 04:00 Sunday 12:00 – 00:30 Bank Holiday Sunday 12:00 – 02:00 Capacity: Ground Floor 195, First Floor 270	Permitting customers to dance to amplified and unamplified live and recorded music at the management's discretion without 14 days prior notice to the police Monday - Sunday: 00.00 - 23.59
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	Service of prepared hot and cold food, snacks and beverages at the management's discretion without 14 day's prior notice to the police. Monday - Saturday : 23.00 - 05.00 Sunday: 22.30 - 05.00

<p>M Supply of Alcohol</p>	<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, 10:00 hrs to 23:00 hrs</p> <p>b) On Sundays, other than Christmas Day or New Year's Eve, 12:00 to 22.30 hrs</p> <p>c) On Good Friday, 12:00 to 22.30 hrs</p> <p>d) On Christmas Day, 12:00 to 15:00 hrs, and 19:00 hrs 22.30 hrs</p> <p>e) On New Year's Eve, except on a Sunday, 10:00 hrs to 23:00 hrs</p> <p>f) On New Year's Eve on a Sunday, 12:00 to 22:30 hrs</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>PLUS</p> <p>By virtue of section 77 Licensing Act 1964</p> <p>CONDITIONS ON Section 77 :</p> <p><u>1st October in any one year to 31st March the following year</u> - The whole premises from 21:00 - 02:00 on any weekday and on Bank Holiday Sundays (except Easter Sunday) from noon to 02:00 and on all other Sundays throughout the year from 12:00 to 00:30</p> <p><u>1st April in any one year to 30th September the same year</u>, upper floor only from 21:00 - 02:00 on any weekday and on Bank Holiday Sundays (except Easter Sunday) from 12:00 to 02:00 and on all other Sundays throughout the year from 12:00 - 00:30</p>	<p>Monday - Sunday: 00.00 - 23.59.</p>
<p>O Hours premises are open to public</p>	<p>As above plus 20 mins drinking up time</p>	<p>Monday - Sunday: 00.00 - 23.59.</p>
<p>P Conditions removed as a consequence of the proposed Variation</p>	<p>Remove all embedded restrictions contained within the Licensing Act 1964 relating to permitted hours (save for the permitted hours on New Year's Eve), Credit Sales and Children in Bars.</p> <p>To remove Conditions 1-6 attached to the Justices' Club Licence.</p> <p>S77 SPECIAL HOURS CERTIFICATE: To remove embedded restrictions limiting the supply of alcohol as ancillary to the provision of music, dancing and substantial refreshment and the restrictions as to when the certificate is applicable.</p> <p>PUBLIC ENTERTAINMENT LICENCE: To remove restrictions as to when public music, dancing and any other public entertainment of a like kind may be provided.</p>	

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 representative of the landlord, freeholder of the immediate area and retained estate (ie Brighton & Hove City Council), and 1 (one) from a seafront trader, both relate to issues of seafront area.
 - b) The representations relate to concerns over the anticipated negative impact of extended opening hours, noise levels and possible public nuisance, crime and disorder, public safety, 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 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.

2.5(a) Diversity of premises

This attempts to ensure that there is a mix of the different types of licensed premises, particularly in areas where there is a high density of such premises. It will provide resilience against changing trends and attract a more diverse range of customers from different age groups, different communities of interest and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This in turn may have a positive effect in reducing people's fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time, may create opportunities for violent crime and public disorder and therefore encourages mixed use venues, varying hours of business and a wider age balance.

Café Bars

The licensing authority may be prepared to look favourably upon an application for the grant of a licence, subject to the following conditions that will prevent the premises becoming a public house.

- The sale of intoxicating liquor and other beverages shall be waiter /waitress service for consumption by persons seated at tables.
 - Substantial food shall be available at all times.
- Licensees should be aware that breach of these conditions is likely to lead to proceedings for revocation of the licence.

Restaurants with outside service

The licensing authority will also consider applications from restaurants that request to serve alcohol to areas adjacent to or immediately outside their premises. In addition to the above conditions for café bars, the licensing authority will require evidence that the applicants have an agreement with the local authority to use the area as defined on a plan provided. The following condition will also apply: -

The sale and supply of alcohol for consumption off the premises shall be restricted to an area licensed by the Local Authority for use of the public highway as shown on the plan deposited and such area shall be defined by a physical barrier acceptable to the licensing authority.

2.5(b) Geographical spread

Spreading the siting of large venues (those with a capacity in excess of 250 people) across the city reduces the problems of dispersing large numbers of people leaving premises in close proximity at the same time. Taxi and bus queues can be flash points for public disorder and violence. A good geographical spread coupled with increased taxi ranks and bus stops near venues reduces waiting time and the potential for crime and disorder.

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.

2.6 Shops, stores and supermarkets which provide alcohol for consumption off the premises: the normal scenario will be to provide for sales of alcohol at any time when the retail outlet is open for shopping unless there are very good reasons for restricting those hours.

2.7 High volume vertical drinking establishments (HVVD's) may, where necessary and appropriate, have conditions attached relating to: a prescribed capacity, the ratio of chairs and tables to be provided for customers based on capacity and the presence of SIA registered security teams.

2.8 Enforcement of legal requirements to prohibit sales of alcohol to those intoxicated will be supported.

In respect of Public Safety

3.1 Club owners and promoters will be expected to have regard to "Safer Clubbing: guidance for licensing authorities, club managers and promoters". The licensing authority will seek to ensure that licensed premises are designed and run in a way which maximises the safety of customers and staff.

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

3.4 Control of public safety at high profile commercial or sporting events or other large scale events may be supported by police powers of closure of licensed premises

3.5 Prior consent will be required for: performance of stage hypnotism, fireworks and lasers. Applications should contain details prescribed by the licensing authority. Conditions may be applied to any consent

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.

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.

6.7 This policy avoids duplication with other regulatory regimes wherever possible.

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.