

**Brighton & Hove City Council**

For general release

**Meeting:** Licensing Sub-Committee**Date:** 26<sup>th</sup> September 2005**Report of:** Assistant Director – Public Safety**Subject:** Application for a variation under transitional arrangements of the Licensing Act 2003 – Lot 73, 73A Western Road, Hove  
**Applicant:** Ian Mackenzie, 39 Cobton Drive, Hove**Ward(s) affected:** Brunswick & Adelaide**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 allow later trading hours for the sake of alcohol
- To allow regulated entertainment

2.2 Summary table of existing and proposed

	<b>Existing</b>	<b>Proposed</b>
<b>Live music</b>	Licensing Act 1964 Sec 182 Two performers	Indoors. Monday - Thursday: 20.00 - 00.00, Friday: 20.00 - 01.00, Saturday: 12.00 - 01.00 and Sunday 12.00 - 00.00 Live music with up to 4 artists may be played on special occasions for short periods of time on some evenings, i.e. jazz band etc.
<b>Recorded Music</b>	Licensing Act 1963 sec 182 music provided by recorded sound ancillary to alcohol sales	Indoors. Sunday - Thursday: 12.00 - 01.00, Friday - Saturday: 12.00 - 02.00 Whenever the premises is open unless other activity prevents it

<b>Performance of Dance</b>		Indoors. Monday - Thursday: 20.00 - 00.00, Friday 20.00 - 01.00, Saturday: 12.00 - 01.00 and Sunday 12.00 - 00.00 Possible performances of dance by artists i.e. belly dancers and only on special occasions.
<b>Anything of a similar description</b>		Indoors. Monday - Thursday: 20.00 - 01.00, Friday 20.00 - 02.00, Saturday: 12.00 - 02.00 and Sunday 12.00 - 01.00 DJ throughout the week if public demand requires it.
<b>Provision of facilities for making music</b>		Indoors. Sunday - Thursday: 12.00 - 01.00, Friday - Saturday: 12.00 - 02.00 and Sunday 12.00 - 01.00 Yamaha HDD CD player and Rotel amplifier together with B & W wall mounted speakers. Available during all opening hours
<b>Provision of facilities for dancing</b>		Indoors. Monday - Thursday: 20.00 - 01.00, Friday 20.00 - 02.00, Saturday: 12.00 - 02.00 and Sunday 12.00 - 01.00 Unless on special occasions where a specific activity has been laid on, dancing will not be encouraged in general terms. However, some dancing may occur spontaneously by members of the public.
<b>Provision of facilities for entertainment of a similar description</b>		Indoors. Monday - Thursday: 20.00 - 00.00, Friday 20.00 - 01.00, Saturday: 12.00 - 01.00 and Sunday 12.00 - 00.00 DJ or compere if live music is taking place
<b>Late Night Refreshment</b>		Indoors. Monday - Thursday: 23.00 - 01.00, Friday 23.00 - 02.00, Saturday: 23.00 - 02.00 and Sunday 23.00 - 01.00 Any hot food and tea/coffee available during opening hours, together with bar snacks.

<b>Supply of Alcohol</b>	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 a.m. to 11 p.m. b) On Sundays, other than Christmas Day or New Year's Eve, noon to 10.30 p.m. c) On Good Friday, noon to 10.30 p.m. d) On Christmas Day, noon to 3 p.m. and 7 p.m. to 10.30 p.m. e) On New Year's Eve, except on a Sunday, 10 a.m. to 11 p.m. f) On New Year's Eve on a Sunday, noon to 10.30 p.m 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.	On and off the premises. Monday - Thursday: 12.00 - 01.00, Friday 12.00 - 02.00, Saturday: 12.00 - 02.00 and Sunday 12.00 - 01.00
<b>Conditions removed as a consequence of the proposed Variation</b>	Any embedded restrictions in current legislation. In particular those restricting the hours for the sale of alcohol, the supply of late night refreshment and regulated entertainment.	

### 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) Several relevant representations have been received from local residents concerned about increased noise from extended opening hours and the provision of entertainment.
- b) A representation has been received from the Council's Divisional Environmental Health Officer (Pollution) concerning the existence of a statutory noise nuisance from the premises and the need to provide additional sound attenuation measures,
- c) A representation has been received from the police concerning crime and disorder and management of the premises.

### 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.

2.8 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

#### 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.

4.5 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.

4.7 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.

## 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.

*Case Officer: Keith Mitchell*