

Brighton & Hove City Council

For general release

Meeting: Licensing Sub-Committee

Date: 23rd September 2005

Report of: Assistant Director – Public Safety

Subject: Application for a variation under transitional arrangements of the Licensing Act 2003 – Prince Arthur 38 Dean Street Brighton BN1 3EG

Applicant: Trevor Malcolm Hughes

Premises: Prince Arthur 38 Dean Street Brighton BN1 3EG

Ward(s) 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:

- Extend opening hours and alcohol sales
- Provide regulated entertainment
- Remove all embedded restrictions inherent in the Licensing Act 1964, the Cinematograph (Safety) Regulations 1955 and the Children and Young Persons Act 1933.

Case Officer: Martin New

2.2 Summary table of existing and proposed

2.3

	Existing	Proposed
A Plays	None	
B Films	None	Video entertainment on TV screens and amusement machines. Sun - Wed: 10.00 - 00.00 and Thu - Sat: 10.00 - 01.00.
C Indoor sporting Events	None	To permit pub games that attract an audience, whether by advertisement or spontaneously. Sun - Wed: 10.00 - 00.00 and Thu - Sat: 10.00 - 01.00.
D Boxing or Wrestling	None	None
E Live music	Licensing Act 1964 Sec 182 Two performers	Live acoustic/amplified music voice, all performances will be limited to end at 23.00 to minimise nuisance except on New Years Eve and New Years Day. Monday - Sunday: 10.00 - 23.00.
F Recorded Music	Licensing Act 1963 sec 182 music provided by recorded sound ancillary to alcohol sales	Recorded music, including jukebox and karaoke, with or without a DJ, including audience participation. Music volume will be reduced from 23.30. Sun - Wed: 10.00 - 00.30 and Thu - Sat: 10.00 - 01.30.
G Performance of Dance	None	
H Anything of a similar description within e, f ,or g	None	Comperes for quiz and similar events, comedians and similar performances in any case using voice amplification. Sun - Wed: 10.00 - 00.00 and Thu - Sat: 10.00 - 01.00.
I Provision of facilities for making music	None	Microphone with amplifiers and dj console. Used as and when required, at anytime during opening hours. Sun - Wed: 10.00 - 00.00 and Thu - Sat: 10.00 - 01.00.
J Provision of facilities for dancing	None	Such area of the bar as may be set aside for dancing from time to time. Sun - Wed: 10.00 - 00.00 and Thu - Sat: 10.00 - 01.00.

K Provision of facilities for entertainment of a similar description to that falling with in i or J	None	
L Late Night Refreshment	None	None
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>Supply of alcohol On and Off the premises</p> <p>Sun - Wed: 10.00 - 00.00</p> <p>Thu - Sat: 10.00 - 01.00.</p>
O Hours premises are open to public	As above plus 20 mins drinking up time	<p>Opening hours:</p> <p>Sun - Wed: 10.00 - 00.30</p> <p>Thu - Sat: 10.00 - 01.30</p>
P Conditions removed as a consequence of the proposed Variation	Remove all embedded restrictions inherent in the Licensing Act 1964, the Cinematograph (Safety) Regulations 1955 and the Children and Young Persons Act 1933.	

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 large number of representations have been received relating to anticipated negative impact of extended opening hours noise levels, crime and disorder and prevention of public nuisance

a) Comments of Pollution team no history of complaints from this 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.

2.4 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 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.