

Brighton & Hove City Council

For general release

Meeting: Licensing Sub-Committee

Date: 31st August 2005

Report of: Assistant Director – Public Safety

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

Aquarium Inn, 6 Steine Street, Brighton. BN2 1TE

Ward(s) affected: Queen's Park

1. Purpose of the report

1.1 To determine an application for variation of 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 permit regulated entertainments, comprising :
 - Live music, recorded music, pub games in front of an audience, facilities for music;
- To extend the hours for the sale of alcohol
- To extend the hours of opening of the premises
- Remove embedded restrictions inherent in the Licensing Act 1964, The Cinematograph (Safety) regulations 1955 and the Children & Young Persons Act 1933
- Provide refreshments after 23:00 hours

2.2 Summary table of existing and proposed activities

	Existing	Proposed
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A Plays	none	none
B Films	none	Video entertainment on TV Screens and amusement machines. Monday - Thursday: 09.00 - 00.00; Friday and Saturday: 09.00 - 01.00; Sunday: 09.00 - 00.00. <u>PLUS</u> When the hours for the sale of alcohol are extended on Bank Holidays and 'Event Days', these hours will also be extended
C Indoor sporting Events	none	To permit pub games that attract an audience, whether by advertisement or spontaneously. Monday-Thursday: 09.00 -00.00; Friday and Saturday: 09.00 - 01.00; Sunday: 09.00 - 00.00. <u>PLUS</u> When hours for sale of alcohol are extended on Bank Holidays and "Event Days", these hours are also extended.
D Boxing or Wrestling	none	none
E Live music	none	Live acoustic/amplified music and amplified voice. All performances will be limited to end at 23.30 to minimise nuisance. Monday - Sunday: 09.00 - 23.30.
F Recorded Music	as permitted by the existing Licensing Act 1964	Monday - Thursday: 09.00 - 00.00; Friday and Saturday: 09.00 - 01.00; Sunday: 09.00 - 00.00. <u>PLUS</u> When hours for sale of alcohol are extended on Bank Holidays and "Event Days", these hours are also extended.
G Performance of Dance	none	none
H Anything of a similar description within e, f ,or g	n/a	Monday - Thursday: 09.00 - 00.00; Friday and Saturday: 09.00 - 01.00; Sunday: 09.00 - 00.00. <u>PLUS</u> When hours for sale of alcohol are extended on Bank Holidays and "Event Days", these hours are also extended.
I Provision of facilities for making music	none	Used as and when required, at any time during opening hours. Monday to Sunday: 09.00 - 23.30. <u>PLUS</u> When hours for sale of alcohol are extended on Bank Holidays and "Event Days", these hours are also extended.
J Provision of facilities for dancing	none	none

K Provision of facilities for entertainment of a similar description to that falling within i or J	none	none
L Late Night Refreshment	none	Provision of hot drinks and snacks, particularly during the "Wind Down" period. Monday - Thursday: 23.00 - 00.30; Friday and Saturday: 23.00 - 01.30; Sunday: 23.00 - 00.30. <u>PLUS</u> When hours for sale of alcohol are extended on Bank Holidays and "Event Days", these hours are also extended.
M Supply of Alcohol	Monday – Saturday 11:00 – 23:00 Sunday & Good Friday 12:00-22:30	Sunday - Thursday: 09:00 - 00.00 Friday & Saturday 09.00 - 01.00; <u>PLUS</u> 09.00 New Year's Eve - 23.30 New Year's Day. 09.00 - 01.00 the following morning on Friday, Saturday, Sunday and Monday on Bank Holiday weekends, Christmas Eve and Boxing Day. 09.00 - 01.00 the following morning on up to 12 other events days per annum, at my discretion ("occasionals").
O Hours premises are open to public	Monday – Saturday 11:00 – 23:20 Sunday and Good Friday 12:00 – 22:50	Sunday - Thursday: 09:00 - 00.30 Friday & Saturday 09.00 - 01.30; <u>PLUS</u> 09.00 New Year's Eve – 00:00 New Year's Day. 09.00 - 01.30 the following morning on Friday, Saturday, Sunday and Monday on Bank Holiday weekends, Christmas Eve and Boxing Day. 09.00 - 01.30 the following morning on up to 12 other events days per annum, at my discretion ("occasionals").
Conditions, terms or restrictions for removal		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:

Two local residents submitted representations relating to the anticipated negative impact of extended opening hours in relation to public nuisance,

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.

4.5 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.

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.