

**Brighton & Hove City Council**

For general release

**Meeting:** Licensing Sub-Committee

**Date:** 8th August 2005

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

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

The Wellington Inn, 53 Elm Grove, Brighton, BN2 3ET

**Ward(s) affected:** Hanover

**1. Purpose of the report**

- 1.1 To determine an application for a premise licence and, if the decision is to grant the licence, to attach suitable conditions to ensure the licensing objectives are met.

**2. Summary of application**

- 2.1 The application is for:

A variation for the premises licence already granted under 'grandfather rights'.

- 2.2 Summary table of existing and proposed

	<b>Existing</b>	<b>Proposed</b>
<b>A Plays</b>	none	Monday to Saturday 10:00 – 00:00 Sunday 11:00 – 00:00
<b>B Films</b>	none	Monday to Saturday 10:00 – 00:00 Sunday 11:00 – 00:00
<b>C Indoor sporting Events</b>	none	Monday to Saturday 10:00 – 00:00 Sunday 11:00 – 00:00
<b>D Boxing or Wrestling</b>	none	none
<b>E Live music</b>	none	Monday to Saturday 10:00 – 00:00 Sunday 11:00 – 00:00
<b>F Recorded Music</b>	as permitted under the Licensing Act 1964	Monday to Saturday 10:00 – 00:00 Sunday 11:00 – 00:00

<b>G Performance of Dance</b>	none	Monday to Saturday 10:00 – 00:00 Sunday 11:00 – 00:00
<b>H Anything of a similar description within e, f ,or g</b>	none	Monday to Saturday 10:00 – 00:00 Sunday 11:00 – 00:00
<b>I Provision of facilities for making music</b>	none	Monday to Saturday 10:00 – 00:00 Sunday 11:00 – 00:00
<b>J Provision of facilities for dancing</b>	none	Monday to Saturday 10:00 – 00:00 Sunday 11:00 – 00:00
<b>K Provision of facilities for entertainment of a similar description to that falling with in I or J</b>	none	Monday to Saturday 10:00 – 00:00 Sunday 11:00 – 00:00
<b>L Late Night Refreshment</b>	none	none
<b>M Supply of Alcohol</b>	<u>Monday to Saturday</u> : 11:00 – 23:00 <u>Sunday &amp; Good Friday</u> : 12:00 – 22:30 <u>New Year's Eve</u> 11:00 to <u>New Year's Day</u> 23:00 <u>Christmas Day</u> : 12:00 – 15:00 and 19:00 – 22:30	Sunday to Thursday 10:00 – 00:00 Friday and Saturday 10:00 – 01:00 <u>Plus</u> : 10:00 New Year's Eve – 01:00 New Year's Day <u>Plus</u> : Sale of alcohol extended on Bank Holiday Friday and Saturday to 02:00. Christmas Eve and Boxing Day until 01:00 hours the following morning. Christmas Day 12:00 – 22:30 Good Friday 12:00 – 01:00 <u>Plus</u> 10:00 – 02:30 on up to 12 (twelve) other events per annum at our discretion ('occasionals')
<b>O Hours premises are open to public</b>	<u>Monday to Saturday</u> : 11:00 – 23:20 <u>Sunday &amp; Good Friday</u> : 12:00 – 22:50 <u>New Year's Eve</u> 11:00 to <u>New Year's Day</u> 23:20 <u>Christmas Day</u> : 12:00 – 15:20 and 19:00 – 22:50	Sunday to Thursday 10:00 – 00:30 Friday to Sunday 10:00 – 01:30 <u>Plus</u> : When sale of alcohol extended on Bank Holiday Friday and Saturday opening to 02:30. Christmas Eve and Boxing Day until 01:30 hours the following morning. New Year's Eve to 04:30 Christmas Day 12:00 – 23:00 Good Friday 12:00 – 01:30 <u>Plus</u> 10:00 – 03:00 on up to 12 (twelve) other events per annum at our discretion ('occasionals')

<b>Conditions requested to be removed.</b>	n/a	remove all embedded restrictions inherent in the Licensing Act 1964, The Cinematograph (Safety) regulations 1955, and the Children and Young Persons Act
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### 3. Representations received

3.1 Details of the representations made are on form L57a (Appx.1) and a summary appears below:

Number : 1 (one) representation received from 2 local residents, residing at the same address

Substance : Anticipated negative impact of extended opening hours on late night noise levels.

### 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.

## **COMMITTEE REPORT APPENDIX**

### **REPRESENTATION NOTIFICATION**

ADDRESS OF PREMISES AND TRADE NAME	Wellington Inn, 53 Elm Grove, Brighton, East Sussex BN2 3ET
TYPE OF APPLICATION	Variation of a Premises licence
APPLICANT(S)	Mr Stephen Richard Burtenshaw
APPLICANT'S ADDRESS	134 Warren Road, Woodingdean, Brighton, East Sussex BN2 6DD

### **DETAILS OF APPLICATION**

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**SUMMARY OF EXISTING CONDITIONS** Licensed for the sale and consumption of alcohol  
Mon – Sat : 10:00 to 23:00  
Sun and Good Friday : 12:00 to 22:30  
Except :  
New Year’s Eve : 10:00 to 24:00  
New Year’s Day : 00:00 to 23:00  
Christmas Day 12:00 to 15.00 and 19.00 to 22:30  
Performance of Recorded Music  
Mon – Sat : 10:00 to 23:00  
Sunday : 12:00 to 22:30

**DETAILS OF REPRESENTATIONS RECEIVED**

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**NO. OF OBJECTIONS:** One

**SUBSTANCE OF OBJECTIONS:** Anticipated negative impact of extended opening hours on late night noise levels.

**CONTACT OFFICER:** Stuart Harley

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Any representation(s) will automatically be heard by a Licensing sub-committee and all interested parties may be heard. Dates and times of such committees will be notified to you in due course. Should the parties involved resolve the issues and the representation(s) is/are withdrawn there will be no need for a hearing.

L57a