

**Brighton & Hove City Council**

For general release

**Meeting:** Licensing Sub-Committee

**Date:** 28<sup>th</sup> September 2005 at 09:30 Hove Town Hall

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

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

**Premises:** R-Bar, 5 - 7 Marine Parade, Brighton, BN2 1TA

**Applicant:** R-Bar (Brighton) Ltd, 5 - 7 Marine Parade, Brighton, BN2 1TA

**Ward affected:** Queen's Park

**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 permit regulated entertainment
- To permit the provision of late night refreshment

Case Officer: Stuart Harley

2.2 Summary table of existing and proposed activities

	<b>Existing</b>	<b>Proposed</b>
<b>A Plays</b>	None	none
<b>B Films</b>	None	none
<b>C Indoor sporting Events</b>	None	none
<b>D Boxing or Wrestling</b>	None	none

<b>E Live music</b>	Licensing Act 1964 Sec 182 Two performers	Monday - Thursday: 11.00 - 02.00 Friday:11.00 - 04.00 Saturday: 11.00 - 05.00 Sunday: 11.00 - 03.00 Singers (soloists or duets) accompanied by electronic keyboard, guitar or backing music for short intervals throughout the evening interspersed with background music. Bank Holiday Sundays: 11.00 - 04.00 Thursday before Good Friday: 11.00 - 04.00
<b>F Recorded Music</b>	Licensing Act 1964 sec 182 music provided by recorded sound ancillary to alcohol sales	Monday - Thursday: 10.00 - 02.00 Friday:10.00 - 04.00 Saturday: 10.00 - 05.00 Sunday: 10.00 - 03.00 Music played on the in-house music system - speakers on brackets to reduce travel of bass across the building. Bank Holiday Sundays: 11.00 - 04.00 Thursday before Good Friday: 11.00 - 04.00
<b>G Performance of Dance</b>	None	Monday - Thursday: 11.00 - 02.00 Friday:11.00 - 04.00 Saturday: 11.00 - 05.00 Sunday: 11.00 - 03.00 Dancers performing routines to recorded or live music in designated areas for short periods of time, generally in the evening. Monitored by door supervisors and staff Bank Holiday Sundays: 11.00 - 04.00 Thursday before Good Friday: 11.00 - 04.00
<b>H Anything of a similar description within e, f ,or g</b>	None	Monday - Thursday: 11.00 - 02.00 Friday:11.00 - 04.00 Saturday: 11.00 - 05.00 Sunday: 11.00 - 03.00 DJ's, cabaret, MC, compere, Karaoke Bank Holiday Sundays: 11.00 - 04.00 Thursday before Good Friday: 11.00 - 04.00
<b>I Provision of facilities for making music</b>	None	Monday - Thursday: 11.00 - 02.00 Friday:11.00 - 04.00 Saturday: 11.00 - 05.00 Sunday: 11.00 - 03.00 Providing an in-house amplification system. Any musicians wishing to use will plug into the system and be under the manager's control. Bank Holiday Sundays: 11.00 - 04.00 Thursday before Good Friday: 11.00 - 04.00
<b>J Provision of facilities for dancing</b>	None	Monday - Thursday: 11.00 - 02.00 Friday:11.00 - 04.00 S Saturday: 11.00 - 05.00 Sunday: 11.00 - 03.00 Designated areas for dancing monitored by management and staff Bank Holiday Sundays: 11.00 - 04.00 Thursday before Good Friday: 11.00 - 04.00

<b>K Provision of facilities for entertainment of a similar description to that falling with in i or J</b>	None	Monday - Thursday: 11.00 - 02.00 Friday:11.00 - 04.00 Saturday: 11.00 - 05.00 Sunday: 11.00 - 03.00 DJ Box with decks to provide music for dancing and entertainment Bank Holiday Sundays: 11.00 - 04.00 Thursday before Good Friday: 11.00 - 04.00
<b>L Late Night Refreshment</b>	None	Monday - Sunday: 23.00 - 05.00 Full menu of hot meals, hot snacks and hot drinks provided
<b>M Supply of Alcohol</b>	<p><b>1. Permitted Hours</b></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>Monday: 10.00 - 02.00, Tuesday - Thursday: 11.00 - 02.00 Friday:11.00 - 04.00 Saturday: 11.00 - 05.00 Sunday: 11.00 - 03.00 Bank Holiday Sundays: 11.00 - 04.00 Thursday before Good Friday: 11.00 - 04.00</p>
<b>O Hours premises are open to public</b>	As above plus 20 mins drinking up time	Monday to Sunday 00:00 – 00:00
<b>P Conditions removed as a consequence of the proposed Variation</b>	Embedded restrictions	

### 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) A large number of representations were received from local residents and a local residents' and business representative society.
- b) The representations relate to concerns over the anticipated negative impact of extended opening hours, noise levels and possible 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.