

BRIGHTON & HOVE CITY COUNCIL
LICENSING PANEL
2003 (Licensing Act 2003 Functions)

2.00PM – 14 SEPTEMBER 2005

HOVE TOWN HALL

MINUTES

Present: Councillors Simson (Chair), Bennett and Pennington

PART ONE

161. ELECTION OF CHAIR

161.1 **RESOLVED** – That Councillor Simson be elected Chair for this meeting.

162. PROCEDURAL BUSINESS

162A. Declarations of Substitutes

162.1 There were no declarations of substitutes.

162B. Declarations of Interest

162.2 Councillor Pennington declared a non prejudicial interest in item 164 as he had corresponded with his constituents about this application in his ward.

162C. Exclusion of Press and Public

162.3 The Panel considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Section 100A(3) or 100 1 of the Local Government Act 1972.

162.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of the following items.

163. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – TZAR BAR

163.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a Premises Licence already granted under “grandfather rights” at the Tzar Bar, 210-212 King’s Road Arches, Brighton (see Minute Book).

163.2 The applicants and the police representative attended the meeting. The police representative confirmed that the police had withdrawn their objection on the afternoon of 13 September following negotiations with the applicants.

163.3 The Licensing Manager informed the Panel that the application would now be dealt with by officers under delegated powers.

164. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – THE PLAZA

164.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a Premises Licence already granted under “grandfather rights” at The Plaza, 43-45 King’s Road, Brighton (see Minute Book).

164.2 The applicant and his representative attended the Panel. Ms Jones attended the Panel as a residential objector.

164.3 Ms Jones expressed concern that Councillor Pennington had written to her and telephoned her to alert her to the application. She considered that Councillor Pennington had an interest in the application and should not take part in the proceedings. The Panel Solicitor did not consider that Councillor Pennington had a prejudicial interest, as he had not expressed an opinion about the application. He had simply been acting in his role as ward councillor in alerting residents to the application. The applicant and his representative and the other panel members were happy to proceed with Councillor Pennington taking part as a member of the panel.

164.4 The Licensing Manager summarised the application as set out in report. Representations had been received from two local residents. No representations had been received from any of the Responsible Authorities. There was no history of noise nuisance.

164.5 Ms Jones informed the Panel that she had no objection to the present hours but did object to the 05.30 opening hours. She considered that the noise after 5.00 a.m from people leaving the

premises would be unacceptable. She stressed that there were many children living in the flats where she lived. Ms Jones reported that the doors to the venue were kept open to encourage people to use the premises. She was able to hear the music from the venue. Ms Jones suggested that the music should be turned down so that it could only be heard by people using the restaurant, and that the doors should be kept closed.

164.6 The applicant's representative informed the panel that the venue was a restaurant, which seated 150 people. Food was served until 2.00 a.m. The premises catered for the older customer. All night drinking by young people would not take place at the premises. There were no noise complaints to date and measures were in place to prevent noise nuisance during later opening hours. It was explained that the front doors had an inner lobby. Music was never played loudly as this would not be acceptable to customers. All the speakers in the building were controlled centrally, with the exception of the outside terrace. The French doors onto the terrace were closed at 11.00 p.m.

164.7 **RESOLVED** – That the application for a variation for the premises licence already granted under “grandfather rights” be granted.

The following condition is attached to the licence:-

The inner lobby doors and all other doors and windows to be closed at 23.00 hours, save for access and egress.

Reasons for granting licence and attaching condition: It was considered that attached condition would address the concerns of the residents.

The Panel solicitor reminded the parties of their appeal rights to the Magistrates Court under the Licensing Act and that appeals must be made within 21 days of written notification of the decision given at the hearing.

165. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – THE POND

165.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a Premises Licence already granted under “grandfather rights” at The Pond, 49 Gloucester Road, Brighton (see Minute Book).

165.2 Mr Murphy, licensee of the Pond attended the panel with his barman Mr Harrup. Ms Hemsley and Ms Reid-Lobatto attended the

Panel as residential objectors.

165.3 The Licensing Manager summarised the application as set out in report. Representations had been received from residents and a residents' association. No representations had been received from any of the Responsible Authorities. Environmental Health had received 6 noise complaints between 1999 and 2004.

165.4 Ms Hemsley informed the Panel that she was not able to open doors and windows because of noise from the pub. If the application was approved residents would be subjected to noise until 1.30 to 2.00 a.m. She stressed that Frederick Gardens was a narrow twitten. Ms Hemsley mentioned an incident, which took place on 15 August. A neighbour had asked if the pub door could be closed at 11.20 pm and had been told to go away. He had phoned the police to report the incident.

165.5 Ms Reid-Lobatto informed the Panel that residents already suffered from noise from the pub. The pub had windows open and the garden faced onto Over Street. Noise bounced off walls and rebounded. The music was so loud that it was like being in the public house itself. She had telephoned the pub to complain but had never received a favourable response. The music was never turned down. Although she heard the last order bell rung at eleven, people did not clear the garden until midnight.

165.6 The applicant informed the panel that he was putting measures in place for when the new hours came into force. An air conditioning unit was being fitted, so that doors could be closed at 11.00 p.m. The garden area would have a gate, which would be locked so that anyone using the area would have to use the side door. The garden would be monitored and cleared by 11.00 p.m. Amplified music would be monitored. He had spoken to staff about these measures. Food would only be served to 11.00 p.m. All windows in the pub were kept shut. Mr Murphy reported that he had no wish to upset the neighbours.

165.7 The applicant informed the panel that Waste Tech collected recycled bottles. The bottles were left for collection on the patio early in the morning and were collected during the course of the day. Signs were being prepared for the patio area and would be in place for next year.

165.8 **RESOLVED** – That the application for a variation for the premises licence already granted under “grandfather rights” be granted.

The following conditions are attached to the licence:-

- (1) The outside patio to be cleared by 22.30 hours.
- (2) The licensee shall ensure that noise or vibration does not emanate from the premises so as to cause a nuisance.
- (3) Doors and windows to be closed at 22.30 hours, save for access and egress.
- (4) The licensee shall ensure that prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- (5) There shall be no movement of bottles from the premises to outside area between 22.00 hours and 0700 hours.

Reasons for granting licence and attaching conditions: It was considered that attached conditions, would address the concerns of the residents.

The Panel solicitor reminded the parties of their appeal rights to the Magistrates Court under the Licensing Act and that appeals must be made within 21 days of written notification of the decision given at the hearing.

166. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – BATTLE OF TRAFALGAR

166.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a Premises Licence already granted under “grandfather rights” at Battle of Trafalgar, Guildford Road, Brighton (see Minute Book).

166.2 The applicants Ms Heath and Mr Holm attended the panel with their representative Mr Thomas. Ms Eden, Mrs Stephenson, Mr Wren and Councillor Keith Taylor attended as objectors. Councillor Taylor was attending on behalf of Ms Stephen. It was established that a letter from Mr Wren had not been received by Environment and Licensing and it was agreed he would not take part in the discussions.

166.3 The Licensing Manager summarised the application as set out in report. Nineteen representations had been received from residents and a Ward Councillor. No representations had been received from any of the Responsible Authorities. There was no relevant history of noise complaints.

166.4 Mrs Stephenson informed the Panel that she and her husband had owned the flat next to the pub for seven years. She was always keen to be a good neighbour but now regretted that she had not complained about the noise coming through the party walls and the noise from emanating from the pub garden, which caused a nuisance in the surrounding streets. Mrs Stephenson was concerned that the pub was applying for karaoke evenings and quizzes while leaving windows open in the summer. She expressed concern about the application for later hours which she considered would lead to patrons shouting, lingering in the street and slamming car door and generally causing a nuisance to residents.

166.5 Mrs Stephenson was able to hear music from the pub and the buzz of conversation through the party walls.

166.6 Ms Eden informed the Panel that she had similar concerns to Mrs Stephenson. She considered that the application was completely inappropriate for a residential area. At the moment, people never left the pub quietly. Patrons were likely to be more drunk when they left the pub two hours later. Residents were unable to sleep before 11.30 pm at the present time. If the application was approved, residents would not be able to sleep until 12.30 to 1.30 a.m. Ms Eden was able to hear live music coming from the pub.

166.7 Councillor Keith Taylor stressed that when residents moved to the area they knew the pub would close at 11.30 p.m. Many residents had young families. If the application were approved there would be a huge potential for the disruption of family life. The residents did not want any extension of trading hours. There were concerns about public nuisance, levels of noise, public safety and crime and disorder.

166.8 Mr Thomas informed the panel that the applicants had written to all neighbours and complainants setting out the conditions they would recommend placing on the licence. These were set out in Section Q of the application. The pub was a well run public house. The garden would close at 11.00 p.m. There would be no karaoke. Live music would not necessarily increase to more than once a month. Many of the objections were anticipating greater noise in the future. Mr Thomas considered that there was no evidence to suggest that by extending hours for the sale of alcohol, the licensee would be less vigilant in controlling noise. Mr Thomas explained the conditions, which he considered, would meet the concerns of residents.

166.9 **RESOLVED** – That the application for a variation for the premises licence already granted under “grandfather rights” be granted with the following amendments.

The hours for the supply of alcohol to be Sunday to Thursday – 10.00 to 23.30 hours. Friday to Saturday – 10.00 to 00.30 hours. Hours open to the public to be Sunday to Thursday – 10.00 to 00.00 hours. Friday and Saturday – 10.00 to 01.00 hours. The hours for live music and recorded music to be brought back by half an hour in line with the above hours.

The following conditions to be attached to the licence.

- (1) The garden to be closed and cleared by 23.00 hours.
- (2) Live music to cease by 23.30 hours, except on New Years Eve and New Years Day.
- (3) No live or recorded music to be played in the garden/patio area.
- (4) Recorded music indoors to be reduced to background level one hour before the sites closes.
- (5) All doors and windows to be shut from 23.00 hours, save for access and egress.
- (6) The licensee shall ensure that prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- (7) There will be no movement of tables and chairs between the end of operating hours and 6.00 a.m.

Reasons for amending hours and attaching conditions: It was considered that the amendment to the hours and conditions attached were reasonable and should help to prevent public nuisance and alleviate concerns about noise caused by patrons leaving the premises.

The Panel solicitor reminded the parties of their appeal rights to the Magistrates Court under the Licensing Act and that appeals must be made within 21 days of written notification of the decision given at the hearing.

167. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – NEW MADEIRA HOTEL

167.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a Premises

Licence already granted under "grandfather rights" at New Madeira Hotel, 19-23 Marine Parade, Brighton (see Minute Book).

167.2 The applicant attended the Panel. The objectors were not in attendance.

167.3 The Licensing Manager summarised the application as set out in report. One representation had been received from the Kingscliff Society. No representations had been received from any of the Responsible Authorities. There was no relevant history of noise complaints to the Pollution Team.

167.4 The applicant informed the panel that the premises was a well run 35 bed hotel, which operated part time as a night club. The hotel was not planning to change the style of operation. There was an application to use the car park area for people to sit outside in the summer and enjoy controlled background music.

167.5 **RESOLVED** – That the application for a variation for the premises licence already granted under "grandfather rights" be granted with the following amendment.

I. Provision for facilities for making music. There will be a restriction for outside in the car park area until 00.00 hours (midnight).

Reasons for attaching conditions: It was considered that the condition attached was reasonable and should alleviate concerns about public nuisance.

The Panel solicitor reminded the parties of their appeal rights to the Magistrates Court under the Licensing Act and that appeals must be made within 21 days of written notification of the decision given at the hearing.

The meeting concluded at 6.40 p.m.

Signed

Chair

Dated this

day of

2005