

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

2.00PM – 20 SEPTEMBER 2005

HOVE TOWN HALL

MINUTES

Present: Councillors Pennington, Pidgeon and Simson

PART ONE

196. ELECTION OF CHAIR

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

197. PROCEDURAL BUSINESS

197A. Declarations of Substitutes

197.1 There were no declarations of substitutes.

197B. Declarations of Interest

197.2 There were no declarations of interest.

197C. Exclusion of Press and Public

197.3 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.

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

198. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – OPENHOUSE

198.1 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 Openhouse, Springfield Road, Brighton (see Minute Book).

198.2 The Licensing Manager summarised the application as set out in the report. There were no representations from the responsible authorities. The Council’s Pollution Control Team said that noise complaints had been received in previous years, but no formal action had been taken. An agreement had been made to clear the garden by 10.30 pm, to close the doors and windows onto the garden by 10.45 pm, and not to move any furniture from the garden after 11 pm. A number of written representations had been received from local residents. Mr J West, who had made a written representation, attended the hearing.

198.3 Three people attended on behalf of the Applicant; Mr D Hills, current manager of the premises, Mr G George of Zelgrain Limited and Mr M Edison, Former manager of the premises.

198.4 Mr West informed the Panel that for a number of years he’d had problems with noise emanating from the pub. He had had to call out the noise control team to monitor the noise. An agreement had been reached with the pub to close the beer garden and to close the doors and windows to the pub at set times. This agreement hadn’t always been adhered to. Mr West referred to a number of occasions when the Openhouse had celebrated Pride and New Year and had not cleared the garden or closed the doors/windows as agreed.

198.5 Mr George informed the Panel that the pub had tried hard to keep the noise down. The Applicants were happy to continue to close the garden at 10.30pm. There were occasions when members of the public would open the door after it had been closed. The door could be locked as it was not an emergency exit.

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

- (1) That the Garden be closed and cleared by 22.30
- (2) All windows and doors to be closed by 22.45 except for access and egress.
- (3) Door to the garden to be closed by 22.45 and kept closed by any method the Applicant thinks is appropriate.
- (4) The licensee shall ensure that noise or vibration does not

emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises.

198.7 **Reasons for granting licence:** It was considered that the above conditions would address the concerns expressed by local residents.

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

199. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – MORE

199.1 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 More, 98 Trafalgar Street, Brighton (see Minute Book).

199.2 The Licensing Manager summarised the application as set out in the report. There were no representations from the responsible authorities. A number of written representations had been received from local residents. Five people who had made representations attended the hearing, Ms J Fuller, Ms S Schaffer, Mr S Frazer, Ms D Inman and Mr J Holmes. However, it was noted that no written representation had in fact been received from Mr Holmes and therefore he was informed that he was unable to speak. Mr Sadegh Ali Al-Hilaly, Applicant, attended with Mr N Perkins, solicitor.

199.3 The Licensing Manager noted that the application included a provision for the sale of alcohol until 02.00 (together with provision for dancing, live and recorded music) on not more than 12 occasions per year, upon giving the Police 7 days notice of their intention to do so. The Applicant was asked that if this proposal were agreed that 7 days notice also be given to the Licensing Authority. The solicitor for the Applicant agreed.

199.4 Ms Inman informed the Panel that this was a residential area. Directly above the premises was a ‘The Foyer’ which provided housing for young people. The property had an outside seating area. There was concern that an increase in the opening hours of the premises could lead to the outside area being used later in the evening which would in turn lead to an increase in the level of noise. The property had a glass frontage. The premises was currently being used as a bar/restaurant. There was concern that if the variation of the license were agreed and there were a change of ownership the

premises could become a bar/pub. Ms J Fuller informed the Panel that the property's glass frontage were glass doors that could be folded back. When the doors were opened there was no barrier for the noise. Mr S Frazer was also concerned about the level of noise, particularly when the glass doors were opened, when music was being played, and in the evening when people leave the premises. Ms Schaffer was concerned over the level of noise in a residential area, particularly when live music was being played.

199.5 The Applicant's solicitor informed the Panel that the premises was a restaurant with 60/70 covers. The sound system for the music was a domestic system and was set at a level which didn't interfere with customers conversation. The provision in the application for sale of alcohol (and the aforementioned related activities) until 02.00 was only for up to 12 occasions per year. The Applicant noted the concerns over the level of noise and advised the Panel that they would be agreeable to close the doors at 23.00 and to cease playing live music at 23.00 Sunday –Thursday and at Midnight Friday and Saturday. There were already a number of public houses in close proximity to these premises and there were no plans to change the use from restaurant to a public house.

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

- (1) All windows and doors to be closed by 22.30 except for access and egress.
- (2) Outside area to be closed by 22.30
- (3) Where the variation requests provision for the sale of alcohol until 02.00 (together with provision for dancing, live and recorded music) on not more than 12 occasions per year, upon giving the Police 7 days notice of their intention to do so, notice shall also be given to the Licensing Authority with both the Police and the Licensing Authority having the power of veto.
- (4) The licensee shall ensure that noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises.
- (5) Live Music to allowed Sunday to Thursday 10.00 – 23.00 and Friday to Saturday 10.00 – 00.00

Reasons for granting licence:

It was considered that the above conditions would address the concerns expressed by local residents.

The Solicitor to the Panel reminded the parties of their appeal rights to the Magistrates Court under the Licensing Act and those appeals

must be made within 21 days of written notification of the decision given at the hearing.

200. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – BEAR INN

200.1 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 Bear Inn, Lewes Road, Brighton (see Minute Book).

200.2 The Licensing Manager summarised the application as set out in the report. There were no representations from the responsible authorities. One written representation had been received from a local resident. The person who made the representation did not attend the hearing. Mr D Cox, the Licensee of the Bear Inn and Mr G George of Zelgrain Limited attended the hearing.

200.3 The Panel noted that the written representation received referred to two public houses, the Bear Inn and The Hub. The person making the representation lived some distance from the Bear Inn. The solicitor advised the Panel that it was a valid representation.

200.4 The Licensing Manger noted that the application included a provision for the sale of alcohol on the occasion of a televised major live sporting event and requested that in such circumstances 7 days notice be given to the Licensing Authority and the Police Authority and that both parties have the right of veto. Mr George agreed to this.

200.5 Mr George informed the Panel that this public house was situated on a main road. The written representation referred to the noise made by loud music. Mr George informed the Panel that the Bear Inn did not have live music. The Panel asked when live music was last played at the premises. The Licensee confirmed that he had been there for 12 months and no live music had been played during that time.

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

(1) That the Police and the Licensing Authority be given 7 days notice of intention to show a televised major live sporting event, and that either party have the right of veto.

Reasons for granting licence:

The Panel noted that only one representation had been received

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

201. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003

201.1 Objection withdrawn.

202. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – CHEZ NOUS

202.1 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 Chez Nous, Arundel Road, Brighton (see Minute Book).

202.2 The Licensing Manager summarised the application as set out in the report. There were no representations from the responsible authorities. A number of written representations had been received from local residents. No one who made representations attended the hearing. The Applicant attended the hearing along with a relative and a Mr M Eteen, Security Officer.

202.3 The Applicant informed the Panel that the premises had had a bad reputation, but it had been extensively refurbished and it was now a family pub. The premises held a number of events for the local community, and closed the pub whilst these were being held. The premises were licensed for civil ceremonies. There were two outside areas, a beer garden and a small area with a limited number of seats. The beer garden is currently closed at 10.30 pm, and no live music is played there. There is currently a S68 license in place, which allows the pub to sell food until midnight. The Applicant stated that they would be agreeable to making it a condition to close the beer garden by 10.30pm.

202.4 **RESOLVED** – That the application for a variation for the premises licence already granted under "grandfather rights" be granted with the following condition:

(1) That both outside areas be closed and cleared by 22.30

Reasons for granting licence:

It was considered that the above conditions would address the concerns expressed by local residents.

The Solicitor to the Panel reminded those present of their right to appeal to the Magistrates Court under the Licensing Act and that those appeals should be made within 21 days of written notification

of the decision given at the hearing.

203. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – THE FREEBUTT

203.1 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 Freebutt, 1 Phoenix Place, Brighton (see Minute Book).

203.2 The Licensing Manager summarised the application as set out in the report. There were no representations from the responsible authorities. A number of written representations had been received from local residents. Four people who had made representations attended the hearing, Mr P Tilley, Mr R Penter, Mr M Fraser and Ms L Wood.

Mr G George, Mr S Walker and Ms L Elee attended on behalf of the Applicant.

203.3 The Licensing Manger noted that the application included a provision for the sale of alcohol on the occasion of a televised major live sporting event, and requested that in such circumstances 7 days notice be given to both the Licensing Authority and the Police with either party having the right to veto. Mr George agreed to this.

203.4 Mr Tilley, the Estate Officer for the Phoenix Estate, informed the Panel that he had received a number of complaints from residents about noise from the public house. The problems include loud music from inside the pub, people leaving the pub and bands loading and unloading their vans. There was also a problem with the bottle bank being emptied early on a Saturday morning. Ms Wood informed the Panel that her property was next to the pub. The noise from the music was a nuisance and an extension to their license would increase the problem. Mr Frazer also informed the Panel he had problems with the level of noise, from within the pub, from people leaving the pub and from bands loading their equipment into their vans. Mr Penter was concerned with noise from the pub and with the behaviour of people leaving the premise, such as shouting, fighting, ringing doorbells and urinating in public.

203.5 The Applicant informed the Panel that the premises were well run. Two security staff were employed. When bands were playing they had to finish by 10.45 pm. The bands had to load their vans prior to midnight. The security staff tried to ensure the patrons left in a responsible manner. The security staff had called the police on a number of occasions, but often it was to do with incidents not

connected with the pub. The Panel should note that the police had not made representations on the application. Live music is only played on the ground floor of the premises, recorded music is played on the first floor. The recorded music is CD's during the week and a DJ at weekends. A noise limiter was used and was placed at the front of the bar.

203.6 RESOLVED – That the application for a variation for the premises licence already granted under “grandfather rights” be granted with the following conditions

- (1) Recorded Music to allowed Sunday – Thursday 10.00-00.00 and Friday –Saturday 10.00-01.00.
- (2) That the Police and the Licensing Authority be given 7 days notice of intention to show a televised major live sporting event, and that either party have the right of veto.
- (3) The Licensee shall ensure that the loading of equipment from live music performers should be completed by midnight
- (4) The licensee shall ensure that noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises.
- (5) The Licensee shall ensure that the placing of refuse, such as bottles, into receptacles outside the premises shall not take place prior to 9a.m.

Reasons for granting licence:

It was considered that the above conditions would address the concerns expressed by local residents.

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

The meeting concluded at 6.20 pm

Signed

Chair

Dated this

day of

2005