

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS) ADDENDUM 1

10.00AM, FRIDAY, 6 NOVEMBER 2020

VIRTUAL MEETING - SKYPE

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ADDENDUM

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SIMON EBERS

WITNESS STATEMENT

1) I am Simon Ebers. I live at Regency Tavern, 32-34 Russell Square, Brighton BN1 2EF

This statement is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated anything in it anything which I know to be false or do not believe to be true. The facts in this witness statement are within my own knowledge or are derived from sources which I explain.

2) I have worked in the licensed trade for over 10 years. I previously worked with Greene King. I left them to run my own pubs. I now have three premises in Brighton which I operate with my business partner Lee Cockshott.

- The Marine Tavern which I have had for 6years
- The Regency Tavern which I have had for 3 years
- Le Village which I have had since August 2019

3) The Regency

We have had very few problems with these premises. It is what I would call a community pub which serves locals and holiday makers. We welcome everyone. We had some teething problems in its first couple of months with noise escape from the live singers. The pub had not had live entertainment before. We worked with the

council to solve the problems. We had a meeting with council officers and agreed a plan of action which was successful. They came back and inspected, and all was well. We have not had a complaint since.

4) Le Village

4.1. Lee and I signed a lease for these premises in August 2019. They were formerly known as The Ranelagh. Previously it had been a live band and jazz venue with a late licence which did not appeal to us, so we closed the pub for 4 weeks to do the refurbishment and rebranded at a cost of over 15k. We turned it into an LGBT venue in the heart of Kemp Town where other LGBT venues situated. We also updated the CCTV and put noise reducers on the doors and installed a new sound system with more speakers. It is better from a noise perspective to have more speakers than less. The sound can be played at a lower volume because it is dispersed over a wider area. The previous operator used to have live bands with trumpets, saxophones, and drum kits. I would imagine that the sound that we generate is quieter in comparison to those days. We only have amplified sound and live singers.

4.2. We refurbished the garden area. It now looks wonderful. We installed plants and heaters and new furniture etc Garden area is always closed at 11.30pm for our licence. The current licence has a condition on it requiring the *"garden to be cleared of patrons by 23.30, and the door kept closed after 23.30"*. I will be asking the LSC to revisit this condition because I have a proposal to make in respect of the garden which I believe will substantially improve the perceived nuisance on Duke Street. I will deal with this below.

Our customer base is local and inclusive and yes, we cater to the LGBT community.

The premises are a safe space for the community. Most customers walk to our premises. Very few arrive by car or taxi.

5) The Police

There are very few of the public order issues with our premises that are more often associated with the heterosexual community. We have only had to call the police once in the time that we have been running the premises. The circumstances related to a man who had recently been released from prison who assaulted a customer. Our security called the police, followed the assailant to his home, and provided the police with CCTV which resulted in a successful prosecution. There was no suggestion that he was drunk or that he had been over served. The police have conducted random drugs tests at the premises which have always been clear. It is significant, I say, that the police make no representations on this review.

6) The EHO representation

6.1. I have to say that this review has come as a shock to us. We certainly received two warning letters from BHCC in October and November 2019. We honestly thought that we were on top of the problem and were being proactive in addressing noise concerns. The next we knew of the continuing concerns of council officers was the service of a noise abatement notice on 15th January 2020

6.2. I make no criticism of this course of action. It is certainly open to the council to do this. However, I had an expectation that we would be treated in the same way as

we were with The Ranelagh. In other words, the council working in partnership with us to solve a problem (as had been done so successfully with our other premises).

6.3. I should say that the issuing of the notice has been appealed and that appeal will be heard on 26th January 2021.

7) The Representations from the residents

7.1. When we brought Le Village, we were not told of any historical noise problem. We only found this out after we walked around to most our neighbours in the first week to say hello and to introduce ourselves. We said that if there were any problems, then they should call us. We gave them our contact details. When the neighbours did call us or text us, were responsive and understanding. We dealt with any complaints speedily. I have even visited REDACTED TEXT in order to sort out his concerns.

Commented [MS1]:

7.2. A complaint that the bass sound is too loud is easily remedied by turning it down. Similarly, I would have expected the residents to work with us rather than against us. After all, the pub has been there in one form or another for many years since 1869. Many will have bought their homes knowing of the existence of the pub with later hours. Darrell Court, the main source of complaints has only recently been in existence. It stands on land which used to be the car park for the pub, but which was sold by the freeholder (Enterprise Inns) to the council for development into flats.

7.3. The Committee will no doubt be aware of the “agent of change” principle.

7.4. Kemp Town is a very noise place with pubs and takeaways all around us. Many venues do have live music and entertainment and are open longer than us. Not everyone that makes noise in Kemp Town has come from Le Village. The LSC will know the area well and will be aware that The High Street is used as a cut through down to the sea front. Hundreds of people pass along the High Street on a busy Friday and Saturday night and late into the morning who have not set foot in our premises.

7.5. We are not the only licensed premises in Kemp Town. There are six others within 100 yards of our premises:

- Zone
- The Bulldog
- Shot’s Bar
- The Camelford Arms
- Bloc
- St James’s Tavern

7.6 All of these have late hours (some much later than ours-Zone has a 4am on Friday and Saturday).

7.7. Three out of the five flats in Darrell Court are closer to these premises than ours.

7.8. The REDACTED TEXT objector is closer to Zone than us, for example. His REDACTED TEXT the entrance of Zone.

Commented [MS2]:

Commented [MS3]:

7.9. Five out of the seven premises in the immediate locality are LGBT premises.

7.10. The photograph of me standing outside our premises with a handful of customers shows two things the first is that I am proactive and hands on. The second thing the photograph shows is me looking towards the very close nearby Camelford, Arms outside of which are in excess of forty people.

7.11. I produce a short video filmed on my mobile which gives a flavour of the liveliness of the area late at night in the proximity of Le Village.

7.12. I shall comment in slightly greater detail on the evidence in a further statement, but say in passing that the photographs taken on the evening of 1st/2nd August 2020 do not paint a true picture and have been selectively chosen. It will be recalled that PRIDE was cancelled this year. Nevertheless, 10's of thousands of people descended on Brighton that weekend with nowhere to go.

7.13. I note that most of the representations are in the same form, although I accept that many have additional comments on the bottom. I would like to know where this "pro-forma" letter originated from.

7.14. I have to say that I have a concern about the views held by some of the more proactive residents. It pains me to say it, but I am certain that a number of them hold views which are “anti-gay”. I will not name them. They know who they are. I will give you an example of one of these. When speaking to one such resident, she explained to me that it was not so much the noise. It was the people. “It’s all this”, she explained, whilst performing an effeminate gesture with her hand. She did not want her grandchildren seeing men in wigs and heels on our drag nights. Still others have remarked that they do not want their children to see these people. The premises were not LGBT before we took over, and now they are 80% LGBT.

7.15. We have cabaret nights three times a week. Our customers are colourful, and they do “dress up” for an evening out. I genuinely believe that this prejudice is what underpins many of the objections, and that is a shocking thing to have to say in this day and age when our community has made so many advances into being accepted. That said, I do accept that there are concerns expressed in many of the representations, and I believe that we have taken real steps to address these. I shall set out those steps.

8) Noise escape

We have commissioned a noise expert (F1 Acoustics) to conduct a thorough survey and health check on our premises. A noise limiter is being installed on Tuesday 3rd November 2020. We asked the residents for access to their premises so they our expert could set the limiter and we have had no reply. Our experts will be serving

their report next week which I shall serve on the council as soon as it arrives. We will comply with all of the recommendations in so far as they are reasonably practicable.

9) The Garden

9.1. We are installing two wooden gazebos for the garden to reduce noise from customers. This will be done in November.

9.2. Regrettably, we did have music piped into the garden on two occasions over one weekend when the premises were able to reopen but were subject to Covid-19 social distancing measures. We did not appreciate that this was a breach of the premises licence condition that *"no recorded music will be piped to the outside garden area"* (Annex 2, condition 2). This was entirely inadvertent and was done to improve the experience for customers who were unable to stand up and move around. It was an unintentional breach, and I am sorry. In every other respect we are condition compliant. The garden is scrupulously cleared at 23.30 every evening.

10) Amendment of garden condition

10.1. Our difficulty with the garden is that because condition 3 of Annex3 ("garden to be cleared of patrons by 23.30 and the door kept closed after 23.30") smokers have to be directed onto the street thereby increasing their proximity to Darrell Court. If we were permitted to allow smokers only in the garden after 23.30, then this would remove them from the street and substantially lessen the impact on Darrell Court. I suggest that the condition be amended in this way:

"save for those persons smoking, the garden shall be cleared of patrons by 23.30 and the door kept closed after 23.30"

A condition could also be added that:

"no drinks or drinks containers shall be taken into the garden after 23.30"

11) Repositioning of front door

11.1. We tried to reposition the front door so that entrance and egress would be via the garden entrance. Our plan is to install a double lobby door and porch. The idea was that, after a certain time, customers would be directed in and out of the premises via this door thereby lessening the impact on the street and Darrell Court. This required a planning application. The freeholders submitted a planning application which was encompassed other unrelated schemes. These other schemes were rejected but not our porch application which was given a favourable indication. The committee required, however, that the application be resubmitted solely in respect of the new porch/lobby/garden door.

11.2. I mention in passing that these plans, which are designed to improve the quality of life for the residents, were objected to by the very residents whose life will improve post works.

11.3. When granted, and the works completed, this will considerably improve matters on the street by moving access and ingress away from Darrell Court. This, coupled with our request to move smokers to the garden, will be of great benefit.

12) SIA door staff

We are in a very busy part of town. We employ door staff from 9pm on Thursday, Friday and Saturday until the premises close. The previous operators did not. They are extremely professional and do their job well. It has had a very beneficial effect rendering the area, generally, much safer. Should the LSC think it appropriate, a condition could be imposed making this a condition as well.

13) Generally

Covid-19 has hit our trade badly, in common with many other licensed premises. We are just trying to keep our business open keep people in work. Because we are at present only able to open until 10pm with seated customers and a reduced capacity, we are just keeping our heads above water. Any reduction in our permitted hours would be a disaster when we are eventually allowed to fully reopen. We employ 10 people. We have worked hard to make Le Village an LGB- safe environment for all people to enjoy. The impression that I have from **some** neighbours is that we are not welcome in the area. I look forward to a day when these sorts of attitudes and prejudices no longer prevail. I sincerely believe that it is possible for our premises to exist in harmony with the residents.

Signed.....

Simon Ebers

Dated 30th October 2020

SIMON EBERS

SECOND WITNESS STATEMENT

1) I am Simon Ebers. I live at The Regency Tavern, 32-34 Russell Square, Brighton BN1 2EF. This statement is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated anything in it anything which I know to be false or do not believe to be true. The facts in this witness statement are within my own knowledge or are derived from sources which I explain.

2) The purpose of this statement is to comment on the evidence that I was served with on Thursday 29th October 2020.

3) REDACTED TEXT 1

I would comment only that professional equipment is required to get an accurate reading of ambient noise levels. The use of a mobile phone to record noise levels is unsatisfactory. I have produced a short video clip taken randomly on 24th January 2020. Although this was taken on my mobile phone, the clip does not purport to record sound levels. Rather, it shows the general business of the area and demonstrates that loud music noise emitted from Zone carries as far as our premises.

4) REDACTED TEXT 3

A photograph has been taken of what is said to be sick on the pavement. The inference is that we were in some way responsible for this. I comment only that this is a very busy street, and that many people unconnected with us pass by our premises at all times of the day and night.

5) REDACTED TEXT 4

I have already commented on this in my first witness statement.

6) REDACTED TEXT 5

We closed at 12am. We were allowed to operate until then

7) REDACTED TEXT 6

Yes, I agree that there are a handful of people on street outside our premises. This is because the garden is closed at 11.30pm. If the LSC saw fit to amend the garden condition in the way that I have explained in my first witness statement, then there would be fewer people outside the premises. I have also explained in my first statement how we are in the process of moving the front entrance to the garden, which we would use for access and egress after a certain time. This requires planning permission, which has already received a favourable response. These two measures (amended condition and repositioning of the entrance) would have a beneficial effect on the residents of Darrell Court.

I remember this evening well because the photograph shows me looking up the street towards a group of about 40 people in the next street outside The Camelford Arms making loads of noise. These people had nothing whatsoever to do with us.

8) Antisocial behaviour, fights and arguments

I would like to say Kemp Town is a very busy place with a large number of pubs and businesses open late (many later than ourselves). We have only had to call police on one occasion. Since we have been open, I have not witnessed one fight, nor have I been told of one taking place.

9) Drugs

We have a zero drugs policy. We have been visited by the police and council officers in order to take swabs. They found no evidence of any drugs. We cannot follow customers when they leave the pub. For my own part, if I saw people taking drugs in my street I would call the police.

10) Light Pollution

We have the same front lights as many other pubs in the UK.

11) Noise Pollution in the evening

We close the front doors and keep them shut as much as possible and ask customers to respect our neighbours and we have posters in our venue. The garden is closed at 11.30pm every night. (but we would like to use it for smokers)

12) Speaker in Garden

I accept that this occurred over one weekend shortly after we reopened following lockdown. I was unaware that our licence prohibited us from doing this. On being made aware that we were in breach, we immediately stopped this.

13) Intoxicated Customers

We always serve responsibly and stop serving when needed. Our Security is extremely vigilant and would ask anyone who is showing signs of intoxication to leave.

14) Noise into the Early Hours

We are always strictly compliant with our opening permitted hours. I have already indicated that there are other premises in the area close by that have later hours than us.

15) Doors and Windows open

Our doors are always closed in evening and garden door closed at 11.30pm

We cannot open any of our windows

16) Rubbish Bins emptied at night

This never happens. We always empty our bins the next day.

17) Open at 4.30am

This never happened 2.30am is our closing time. The Bull dog has a 4am license

18) Selfish owners only here for profit

Certainly, the aim of our business is to make a profit. I stress that this is not “at any cost”. We have invested in our premises and made the pub look nice. We have refurbished the garden with plants etc and looks so much better for the neighbours and our customers. We do genuinely care about the area and our neighbours. That is why we took the trouble to visit them and introduce ourselves when we first bought the pub. We gave them all our numbers. My business partner, Lee Cockshott, lives in St James’s Street so he is a resident and part of the community as well as a business operator. I live nearby. This community means a lot to us. We live, eat, and breathe these streets. This is where we have

settled with our family and friends. We understand the importance of community. We operate a safe business for the LGBTQ community.

19) Parking

The overwhelming majority of our customers walk to our pub .

20) Talking outside on highway

Yes, at 11.30pm customer do go outside on highway because the garden is closed even for smokers. I have already presented a solution to this. However, we always tell customers to respect our neighbours at all times.

21) Covid-19 precautions

These are always kept to a high standard. Customers sign in; we provide hand sanitiser; our staff wear masks; a one metre space is maintained, and customers are kept in their bubbles.

22) Video clips

- In one clip I can see and hear some girls arguing. I cannot see the location of this.

- In the second clip someone is playing a guitar in the street. This has nothing to do with the pub
- In the third clip the front door is shown as open. This is during the early evening. It is not a condition of our licence that doors should be kept shut after a certain time. If the LSC wished, they could impose a condition *“that all windows and doors should be kept shut save for access and egress after 21.00”*

23) Conclusion

These proceedings, together with the service of the noise abatement notice, have been extremely stressful for us and our families. We have turned the pub around. Before our arrival it had changed hands 3 times in 5 years. The pandemic has presented us with extreme challenges. We have tried to maintain our workforce and have only laid off two employees. I have never known a situation such as this before. I ask that the LSC adopts the course that I have outlined above and in my previous statement. There is a solution to these concerns, and it does not lie in revoking our licence or curtailing our hours.

Signed.....

Simon Ebers

Dated 3rd November 2020

