

BRIGHTON & HOVE CITY COUNCIL
LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

10.00am 10 MAY 2024

COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 3BQ - HTH/CC

MINUTES

Present: Councillor ; Nann, Sheard and McGregor

Officers:

PART ONE

1 TO APPOINT A CHAIR FOR THE MEETING

1.1 Councillor McGregor was appointed Chair for the meeting.

2 PROCEDURAL BUSINESS

2a Declaration of Substitutes

2.1 There were none.

2b Declarations of Interest

2.2 There were none.

2c Exclusion of the Press and Public

2.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

2.4 **RESOLVED:** That the press and public were not excluded.

3 MINUTES OF PANEL HEARING

3 PARIS HOUSE LICENSING PANEL (Licensing Act 2003 Functions)

In attendance

For the premises: Alastair Mackinnon-Musson (Director of Premises), Tony Groom (Head of Legal for Premises), Andy Grimsey (Solicitor for the Premises), Alex Tomlinson (Solicitor for the Premises), Helena Marchand (Premises Manager), Andy Wagstaff-Clark (Premises Staff)

Applicant: Christopher Hallsworth (lead applicant), Jacqueline Kilby (lead applicant), Leigh Rush, Virginia Hallsworth

Making representations: Councillor Andrei Czolak, Councillor Brigit Miller, Mick Hamer, David Herman, Phill Newman, Muriel Jacquinet, Ursula Underhill, Amanda Ogilvie, Brian Ogilvie, Melvin Vernet, David Fairfield, Jarrod Elks, Tori Sheard, Fraser Sim, Richard Vivian

Guests: Sarah Booker-Lewis – Local Democracy Reporting Service

Officer Presentation

3.1 The Licensing Officer summarised the details of the application which was submitted by four local residents for the review of a premises license for Paris House, 21 Western Road, Hove, BN3 IAE.

The Licensing Officer informed the panel that the current license holder is Rowbell Leisure Ltd, and a copy of their premises license could be found in appendix A to the agenda, and that the license was converted from Magistrates court in July 2005, with a variation to the existing license being applied for at that time. They confirmed objections were received at the time there for the variation went before a licensing panel and was granted with conditions attached.

The Licensing Officer informed the panel that the license was held by 'In-Brighton Ltd' at the time of the variation application and was transferred to Rowbell Leisure Ltd in August 2012. They also informed the panel that the conditions and activities on the licence have not been varied or changed since 2005.

The Licensing Officer confirmed that the review application was submitted to the licensing authority on the 8th of February 2024 and accepted on the grounds relating to the licensing objectives for the prevention of crime and disorder, and the prevention of public nuisance. They advised that the review application could be seen at Appendix B1.

The Licensing Officer informed the panel that a large amount of evidence was submitted with the application, which was shared with all the relevant parties and stated that the hearing was adjourned from its initial scheduled date so that all parties and the licensing authority had time to prepare the paperwork for the hearing.

The Licensing Officer confirmed that two representations were received from the licensing authority and the environmental protection team, outlining their history with the premises at Appendix C1. They went on to confirm that nine representations were received in support of the review, at Appendix C2, with one neutral representation at Appendix C3.

The Licensing Officer further confirmed that 130 representations were received opposing the review, at Appendix C4, and that representations have regard to the prevention of crime and disorder and the prevention of public nuisance, licensing objectives.

They informed the panel that a large number of emails were received with the same wording as a result of a QR code that was posted on the premises and that these emails were listed as names and email addresses, in a table, to form a petition in support of the premises. They stated that there were 1646 emails in total and that this petition could be found at Appendix C5, although with personal details redacted, they also confirmed that this had been shared with all relevant parties.

The Licensing Officer informed the panel that licensing guidance states that the proceedings set out in the 2003 Licensing Act for reviewing premises licences, represent a key protection for the community, where problems associated with the licensing objectives occur after the grant or variation of a premises license.

They confirmed it was ultimately the decision of the panel assembled from the members of the licensing committee and that after all the evidence has been presented, the panel can take the following steps:

- Modification of license conditions, adding, modifying, or removing conditions,
- Exclusion of a licensable activity, they stated this could include limiting hours or activities in all or part of the premise.
- Removal of the designated premises supervisor.
- Suspension of the license for a period of not exceeding three months.
- Revocation of the premises license
- Take no action.

The Licensing Officer informed the panel that, on a review of a premises license, Section 117A of the 2003 Licensing Act permits a licensing authority to lift the suspension of deregulated entertainment conditions and give renewed effect to existing condition relating to music. They also stated that, similarly, under Section 177A4 of the same act, a licensing authority may add a condition, relating to music. They advised that in both instances, the condition should include a statement that Section 177A does not apply to that condition.

The Licensing Officer concluded that, in the guidance for deciding which powers to invoke, it is expected that licensing authorities should, so far as is possible, seek to establish the cause or causes of the concerns that the representations identify and that the remedial action taken should generally both be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review

Applicant's Statement

3.2 It had been agreed amongst the applicants that Chris Hallsworth (CH) would open proceedings for their side. He stated that there were two grounds, upon which the submission for review was being made. The first in relation to crime and disorder, which, evidentially presented a problem as there was no Police representation or report available.

CH also outlined the difficulty around the information circulated for the hearing, he noted that it had been obtained under the Freedom of Information Act, and only covered the period up to August 2022; stating that in September and October 2022, the applicants submitted a report to the local authority and also made it available to the police licensing department.

CH confirmed that the applicants had not received any further communications regarding the matter from the Police and therefore were not informed regarding any subsequent communications between the police and premises license holder or their legal representatives. It was also their understanding that the premises license holder and legal representatives had been spoken to regarding the matter but that this could not be confirmed.

CH set out that the basis for the crime and disorder aspect of the review which was drug taking in the vicinity of the premises, allegedly with an increasing frequency, urinating in the street and noted that in the noise diaries submitted for the review, there had been two instances where this had occurred on the 12th and 24th of February 2024.

The other aspect of the review regarding public nuisance, had been outlined in the documents regarding antisocial behaviour in the vicinity of the premises, including shouting and shrieking. The applicants also stated that it was not their intention to stop people from enjoying themselves, and that they themselves had visited the Paris House in 2017.

CH stated the applicants felt that their strongest evidence was in relation to the prevention of public nuisance, noting that they had explored all other avenues before the hearing, which included writing to the local authority via email in February 2019, they had made it clear that they would be willing to meet with the premises license holder, but this did not come to fruition.

CH added that video of the alleged breaching of license conditions had been provided to the local authority and this had been shared with the premises license holder. In addition, the local authority had warnings to the premises license holder, culminating in a mediation in October 2019, which was unsatisfactory to the applicants. They stated that the premises license holder had refused to acknowledge a problem and their attitude at the mediation was not conducive to solving the issue. CH stated that when meeting local authority officers after the mediation meeting it had been confirmed that letters and video evidence had been shared with the premises license holder. The applicant confirmed that this had all been set out in their witness statement.

CH stated that the applicants and residents persisted in writing to the local authority, keeping noise diaries, and sending emails. They confirmed the local authority had provided them with recording equipment to undertake this.

The applicant stated that they did co-operate with the process but were disadvantaged because the microphone recordings had been set up incorrectly by the officers to get a correct measurement of the noise levels. They added that there are two areas of noise that could give

rise to a noise abatement notice, and the policy indicated that if the officers witnessed the source of the noise, they would be prepared to take action.

Subsequently the officers advised that the microphones were in the wrong place and that they could not substantiate that the noise came from the place as alleged by the applicants and residents. Matters had progressed to the point where the applicants felt that they had no choice but to apply for a review of the premises license.

CH stated that as a consequence the applicants and other residents over the last five years had been disturbed in their homes, were unable to enjoy their back garden, were awoken from sleep and were unable to entertain guests at the front of their properties due to the disturbances.

Jac Kilby (JK) added an individual perspective, the first complaint had been made in 2020 and this issue was still ongoing which had caused considerable stress and taken a personal toll. This included having to sleep elsewhere other than in her own home as she was often woken in the early hours due to the noise.

Leigh Rush (LR) added that he was unable to enjoy his own home peaceably and working from home had been difficult due to the levels of noise. He felt that reasonable requests made to the Paris House to reduce the noise levels had been met with cynicism and disrespect.

Richard Vivian (RV) stated that he had been instructed by the lead applicant (CH) to conduct research and prepare an acoustics report and make recommendations to be adopted as conditions. He had attempted to engage with the legal representatives of the license holder, in March 2024, in order to research the noise levels and arrange recordings. His recommendations had been submitted via evidence to the panel which he referred to as a report. RV confirmed that they had not received a response and therefore in April 2024, they conducted acoustic recordings and research independently. RV described the level of noise in the daytime as acceptable but late in the evening (after 1am) as shocking. RV referred to some technical issues such as that fact that the building was old and there was no lobby to limit noise, secondly it was clear that the premises are not rigid about asking bands and DJs to use their sound equipment and therefore there was no control on the level of noise. RV went through the conditions/recommendations set out in his report which included more robust wording on the existing licence and clear references to the timings of live music. There was outside space on the pavement, but this should be limited to the sensible façade of the building.

Cllr Czolak stated that they had been requested by residents to make a representation, explaining that they had been contacted by the applicants early after their election (May 2023) to explain the issues they were dealing with and their experience with the Paris House. Cllr Czolak added that they had also seen correspondence from other residents which stated that the Paris House was seen as an important part of the community.

Questions from the panel to the applicants

Cllr Sheard

- Clarification regarding which videos submitted by the applicants matched the audio recordings also submitted as evidence. CH responded that the video was a

selection so there was no direct correlation although additional clips were available if required.

- If the emails submitted at the start of the process were a part of the submission or FOI documentation. CH responded that he had assumed that the police had provided a log for the councillors to look at.
- Asked RV to talk through the different decibel levels explained in Appendix F1
- Referred to the noise incident at 1am (RV report) and the timings.
- Clarification from residents regarding any acoustic dampening (sound proofing) measures taken for their own properties. CH responded that they had not and did not deem it necessary to resolve the issue. It was noted that their own property was double glazed and believed it had cavity wall insulation. JK confirmed they also had double glazing on their property and had considered the options for acoustic dampening.

Cllr Nann

- Asked if the residents aimed to have a complete cessation of music by the premises. The residents responded that this was not their intention at all, that they did not want to be unreasonable but the level of intrusion into their lives since 2022 had become intolerable, with music being clearly heard in their homes 50 meters away. They stated that they did not want to move house and only requested proper management of the issues raised.
- Clarification regarding confidence in the ability of the measures proposed in point 8 of the report to alleviate the situation for the residents. RV confirmed that this was the case and that they would have proposed the same measures if they had been instructed by the premises license holders.

Cllr McGregor

- Would it make a material difference if the outside tables and chairs were moved? RV responded that the issue was more around the lack of a lobby door as the band were effectively next to the door and noise breaks out of the building. There was also a discussion around the windows being shut when they had live music.
- Clarification regarding the function of the sound limitation equipment. RV confirmed that there was provision for some systems to operate as a 'mains cut off', once a threshold had been crossed and noted it was a crude system – he suggested there were alternative solutions such as a more robust stage management policy.
- The Chair focused on the cultural aspect and asked if RV had observed what could be described as a public nuisance such as noisy crowds at night. RV responded that he had not seen this although it was acknowledged that this did not necessarily mean it had not occurred and these issues were worse in the summer. In addition, it had been quiet since March when the application had been submitted.
- Was 8.4 a feasible condition? RV responded that the point was to emphasize that the premises should not cause a nuisance.
- The chair also observed that they had a duty to observe steps the interest of public safety in the late-night economy. RV responded that a supervised drinks table would be a positive move or making the outside area only for smokers. The Chair stated that the venue had a pavement licence until 11pm.

- Are the SIA personnel at the Paris House dealing anti-social behaviour and managing noise levels sufficiently. CH responded that it was not obvious this was the case, as there were not enough staff (one) present during busy periods.
- Clarification on what CH means by stopping noise. CH responded and clarified they meant no more nuisance and disturbance inside the residents' homes, the applicants made clear they do not object to an acceptable level of background music.

Questions from the license holder to the applicants

Andy Grimsey

- Clarification on the applicant's position regarding the proposed revocation of the license as one of the conditions. CH responded and confirmed that they supported the proposed conditions in RV's report.
- Clarification on the applicant's position regarding the proposed conditions in light of how the disturbance is currently perceived or as it was before the review application was lodged. CH responded that they had taken into account RV's industry expertise and supports their assertion of the proposed conditions in the report.
- Asked if the applicants could accept that the responsible authority's environmental health officers had visited the premises, and a number of their reports contained the re-occurring statement that whilst there was audible noise it was not a nuisance. CH responded that the applicant's frustration was with the system, making note that the officers had visited and made recordings, but not at times when the residents would have been complaining about a disturbance.

Tony Groom

- Asked the residents if they had ever met before in relation to the matter, CH confirmed this. TG added that they had been intending to attend a mediation meeting, but it was their understanding that this had been vetoed by CH. CH disagreed and stated they could not recall being asked about TG attending and reaffirmed that they would have agreed as it would have helped the mediation.
- Requested clarification from the applicants if the incident regarding public urination on the 12th of February was suitable for the basis of anti-social behaviour as it had taken place after the application was lodged. CH responded that they understood the point being made but the incident was the first they had personally witnessed in a series of recurring similar incidents. JK had also complained that the empty bottle shelter built by the Paris House was being used for public urination late at night, and thus indicative of a series of events including finding discarded bottles and glasses. They noted that whilst they could not be definitely attributed to the Paris House, there was a suspicion due to the frequency and vicinity.
- TG responded that there was anti-social behaviour in the area although this should not always be linked to the Paris House. He asked why each of these incidents were not reported and they would have checked the CCTV and taken appropriate action if this concerned a customer. CH responded that this was a difficult situation and he had already experienced anxiety after speaking to the person involved, he did not have faith that the person would be banned if he spoke to the pub.
- TG referred to the issue of drug dealing in the vicinity. CH referred to a man whom PSCO had described as a drug dealer who had been witnessed in the pub

frequently and he had observed what he believed was dealing in late April. TG responded that he was well known and had mental health issues and stated that he was barred from the pub. TG suggested that he was not being properly managed by the security team.

- HM added that she had not been contacted personally about any of these issues. They frequently asked the suspected drug dealer to leave the premises and she had seen a resident storming into the pub and asking for the music to stop. The residents responded that they felt that the pub staff were not approachable, any complaints were rebuffed by the management and followed up with intimidating letters.
- TG asked why the residents had not called the police on witnessing drug dealing. CH responded that they had and submitted statements, the police had suggested recording the evidence of dealing which had not been possible.
- RS discussed if a public nuisance did or did not relate the pub and they discussed this issue. CH suggested that more could be done and there was a wider problem about the lack of management.
- TG responded that the pub would always cooperate with the police for example sharing CCTV footage although some of the above activity was not possible to control. The chair asked if the residents felt that the PH made a positive contribution to monitoring crime and disorder in the area.
- TG questioned RV about his set up to record noise. RV explained the process, he used a sound meter to make technical measurements. There was further questioning about the data collected which did not seem like a lot of data to the representatives.
- TC asked about attended measurements and if they were all in the table, RV responded in the affirmative - Fig 5 was the attended annotated measurements. He explained that the data was a summary which had been simplified for submission.
- TC responded that more data would have been helpful for scrutiny. He observed that there appeared to be a lack of data after 18:42 and up to 1:00, and a chart would have been useful. RV stated that the noise levels are were clearly witnessed in the report.
- TC referred to the crescendo of noise referred to in the report (5.3) – but asked why this data was not referred to in the table. The Chair observed that the report should be looked at as whole.
- AWC asked if his report included subjective observation. He also asked if any of these levels were over the permissible levels, and there was a discussion around public noise levels, RV responded that there were no threshold levels in terms of noise in the act.
- AWC explained how the equipment was set up and asked how he could have made his observations about equipment set up without inspecting the equipment on site. RV explained what was technically wrong with the setup of the limiters and this should be in the conditions. AWC disputed this and said they were set up correctly.
- AMM asked about the different locations around where the readings were taken which would differ. RV stated that the music was audible in all of the properties he visited. The Chair asked if the windows were closed would it still be a public nuisance? RV responded that as it was late at night it was a public nuisance issue.

- MJ added her perspective on the situation and observed that there did not seem to be a lot of control and that she found the noise level to be shocking.

Representations from Responsible Authorities

Environmental Protection Officer HCDM stated that some examples of potential conditions were set out in Appendix C1.

Questions

- The Chair asked if these conditions would affect the business and be enough to satisfy the residents? It was noted that the licence holder was happy to discuss conditions.
- CLLR Sheared asked if C1B3 would be reasonable conditions within licensing authorities. HCDM explained that she had focused on the public nuisance areas in her recommendations. The Chair asked what would suffice as a statutory noise offence? HCDM stated that there was a difference between a public and a noise nuisance, investigations had been ongoing since May 2016 and were conducted thoroughly, no statutory nuisance had been identified.
- CLLR Nann C1 asked if the suggested noise management plan been agreed, no but the PH had their own plan.
- JK made a comment about the service being underfunded and therefore they had not been able to do as many call outs as the residents would have liked. The Chair observed that any discussion about council funding was not appropriate. HCDM then set out to the panel the hours worked by the call out team over the 22 visits made and this included weekend when live music was on. It was confirmed that the premises did not know when these were taking place.
- AMM asked if over the 22 visits if any problems were found? HCDM responded that during the course of these visits the nuisance was not substantiated.
- SC made a point that the council noise service ran at the weekends and was stopped in 2019.
- CCLR Nann asked what method was used to measure the noise. HCDM stated that she was not technically trained but had professional experience, and it was subjective only. AMM stated that the premises also took their own readings on a regular basis for many years and these logs had been shared with the council.
- TG asked HCDM about a FOI request made in August 2022 when an allegation had been made that the premises had been fore warned about the inspection. HCDM stated that this was not the case.
- JC asked about the length of visits, HCDM responded that the average length was 20 to 30 minutes.
- AG stated that HCDM did have experience of working in Brighton and Hove and wished to clarify that the conditions would suffice for the chair to consider.
- SC clarified the proposals and the conditions and that these documents should be referred to only.

Licensing Office (EF)

- EF Set out the detail under Appendix C1. The Chair asked how many different people put a complaint in. From 2023 there have been about ten different complainants

Questions from the applicants

There was a general discussion about the number and type of complaints made.

- AMM asked if the officers were aware of the different systems for collecting data. EF said that this was correct. They had asked the pub to take common sense recordings with due diligence, comments were also recorded in the book.

Representations from the Licence Holder

- It was noted that the official the policies of the CIZ are not very enforceable. They wished to make it clear that Government guidance makes it clear that in a CIZ you cannot use CIZ to revoke a licence. The key point of the legal argument is that you cannot change the status quo, the pub is already a part of this, and music has been at the venue in various forms for over 30 years. It is a busy and vibrant part of the city which is reflected in the cumulative impact policy which acknowledges that an area is already lively. The council and police did not want to change the status quo, and they referred to a single case (Hope and Glory case) which focused on competing considerations which should be weighed up in consideration.
- TG explained that his statement looked at the legal context. He summarised that they are professional operators and active in the area and run community assets. They have had very few issues with neighbours and their other pubs and clubs have been improved, no allegations of this nature have been made at the other venues. They have a good and respectful relationship with the Council and fully meet their licencing objectives. TG noted that the police have not made any representations or attended the premises. CCTV is used to reduce crime and disorder and the area is well lit. TG stated that in over 22 visits no noise nuisances were noted which showed a lack of evidence. There appeared to be discrepancies between the type of complaints, there had been misunderstandings about the type of pub it is, many customers were of the more mature type and included neighbours. There is a noise management plan in place which was put forward by the Council and these suggestions were taken on board and additional items have been added. There were not issues with people queuing to enter the pub. The pub has worked collaboratively with the Council in the lead to this panel. TG stated that complaints were taken seriously from neighbours, but they did disagree with some of the representations that had been made for example that drugs were used on the premises. TG disputed

the evidence that had been presented by RV and this was not objective. TG did not agree that they were blocking the pavements.

- ALW stated that as a DJ at the Paris House their livelihoods were at stake, and they wanted to protect the cultural scene in Brighton. He was mindful of the noise level and outlined the methods that he used to monitor and control it. There had been one incident of a disturbance by a neighbour who had complained about the noise. ALW played some music to demonstrate the point that the music did not reach a crescendo as stated.
- HM emphasised how the pub operated at a consistent level to control the noise. The same music acts were booked in general, so nothing had changed in that respect. The musicians are professional and trained to comply with licence conditions. They were respectful of the neighbourhood and wished to work with the community, staff were trained in this respect.
- AMM stated that the pub was doing 30% less live performances than before Covid. He referred to RV's report which he found was odd, the parameters suggested that they had not been breached. He disputed that they had not shown cooperation, they had attended mediations and were happy to have a dialogue with local residents. They run community spaces and not bars so that people can connect, live music spaces are essential in the city and the pub is a great asset to the area. In his opinion the status quo is therefore reasonable and acceptable in this process and there is no proof that a problem exists. The video and sound evidence represents what the pub is about. Their readings have been collated for many years and this can be used in their defence. There is also no evidence that they have been in breach of their duties. The neighbours should be aware that a live music venue was in the area and had been so for many years. AMM referred to the Council's vision and he believed that the pub entirely fell within this strategy of having a lively grass roots scene, it was a popular venue and was an asset to and a vital part of the city. The licence conditions would severely affect business and closure would not stop any anti-social behaviour.
- The Chair added that cultural impact could be taken into account but would not be the overwhelming part of the discussion – it should focus in public nuisance and crime and disorder
- CLLR Miller had visited on a Monday (the most complained about session) and had found that the music level was in fact drowned out by traffic although she acknowledged that music in the evening would be more noticeable. The majority of the customers were over the age of 65 who were well behaved and there was no level of crime and disorder. She did refer to social disorder, but this was outside by a passer by who had not been allowed to enter the premises. It should be noted that the noise had been reduced since March where a nearby hostel had been closed, this may have been the source of anti-social behaviour. She also added her support for the venue being a valued part of the cultural music scene.

Questions to the License Holder

- CLLR Sheard did they think that as the review had been brought by the residents and not an official body that the value of the complaint was somehow lesser? AG responded that it would be a stronger case if any of these authorities were supporting it.

- CLLR Sheard asked for an overview of where the other venues are. TG set this out for the panel and talked through their various sites around the city. One of these venues was now recognised as a much-valued community venue.
- CLLR Sheard asked about drug swipes – HW and AG explained the steps that they had taken to deter this and added that the age profile of the customers meant that this was less an issue than other venues.
- CLLR Sheard asked AWC about the base volume that would need to be considered when playing tracks and if this was manually adjusted? AWC set this out for the panel, he would make manual adjustments. He did not exceed the levels, or the music would be cut out.
- CLLR Sheard asked if they understood that the judgements would be made of the quality and the quantity of the evidence of representations made.
- CLLR Nann asked to make it clear if any changes would mean an end to business or if they would accept any changes suggested to the conditions. AMM responded by setting out the issues with fire safety – there was only one exit from the building, they had built a lobby in other venues as there were fire exits available, but this could not be actioned at the Paris House so they could not meet this condition. He added that they have already met a lot of the conditions already for example they do have a limiter which has been recently purchased, and they employ a security manager at the weekend, therefore they did already comply with all conditions on the licence. TG added that the specific detail of any changes to the conditions would need to be considered.
- The Chair asked about some of the specific suggestions such as installing double glazing and sound proofing, AMM responded that this could be prohibitively expensive, and as they were based in a conservation area these amendments may not even possible.
- The Chair asked about the lack of data in the noise report at 1am – TG responded that the music could not be heard on the videos at this time.
- The Chair asked about the marketing of so-called club nights. AMM responded that people that live adjacent to and near the pub had not complained, there was reference to maps that detailed where complainants and also supports where located. AWC stated that this was a club night for grownups rather than a club in its own right.
- The Chair asked about steps to ensure people left as quietly as possible and reduce noises at closing time. TG explained that a lot of people left earlier, the clientele was more mature and likely not to be disruptive and other local venues also close at that time.
- CLLR Sheard asked about the pavement licence and asked to clarify what the licence covered and HMM set this out for the panel. He explained steps that were taken for example taking down chairs tables normally earlier than 11pm. There was visible signage asking clients to be quiet and about respecting local residents. This was all included in staff training.
- CLLR Sheard asked if people were allowed to smoke outside once the area had closed. HMM stated that people were discouraged to take drinks outside but at the same time they were acutely aware of the danger of spiking and their major focus was on maintaining a safe venue.
- CLLR Sheard asked if they would object to the condition to stop people taking drinks outside. AMM said that this was not acceptable as there were certain times such as New Year's Eve which would make this harder to control. In addition, leaving unattended drinks inside was a danger to the risks of spiking. The Chair acknowledged that this was a double-sided issue. AG added that they would always cooperate with

advice given to them by authorities such as the police to control these risks and they would accept advisory recommendations.

- The Chair added they were considering possible ways to control sound from within the building. AMM stated that they did keep on top of this issue.

Questions from the applicants to the Licence Holder

- RV asked how many groups were there and did they all bring their own equipment – HW set this out and explained that some used the pubs equipment, and some bands provided their own equipment.
- RV asked about the measures taken if the noise exceeded a set level AWC explained that the level was never exceeded so this did not happen. RV asked for the make and model of the limiter, AWC did not have this information to hand. AMM added details about the limiter and who supplied it (a local sound engineer). He added that live music did not go generally past 10pm at night.
- The Chair asked if this could be in the licence conditions, AMM stated that they did not want this as they already complied as much as possible to these timings and for events such as New Year's Eve this was important.
- RV asked where the limiter was located. AWC explained that anything that went through the speakers would cut out if the limit was exceeded. RV suggested that this was a possible weakness. There was a discussion around the timing of the limiter use.
- RV asked for the name of the sound expert – AWC provided this detail.
- CLLR Sheard asked if the Environment health team had inspected the limiter. It was confirmed that they had seen this; it was operational and had photographic evidence.
- RLR asked about having the windows closed? AMM said there was an expectation that complainants kept their windows closed as this was advised by the council officers. It was noted that the doors would also be shut when the live music was playing – although obviously people did have to enter and exit the building.
- RLR made an observation that their home life was made difficult due to noise whilst other people enjoy the music. The Chair disallowed this question as being subjective.
- HDCM asked if anything had been different in the last four weeks, HM stated that they had not.
- HDCM asked about the benching – HM stated that the benching had been fixed and was also not in use to minimise noise. EF asked if closing the benches earlier would be considered. AMM stated they were not covered in the pavement licence as they were not on the highway, and they did more than they needed to in any case. The Chair added that there was a pavement licence until 11pm.

Representations in support of the Licence Holder

- AO made a positive statement in her own opinion as a local resident and a client at the pub. She had observed strict security in place, and it was a well-managed venue.
- AC added that it was a unique venue with a varied clientele, there was live music, but it was minimal. It was a cultural hub that encouraged musicians and was a positive influence in the area.
- MH organised the Monday afternoon jazz sessions, they were professional musicians and there was a wide age range. This was an important social venue for the customers. All effort was made to control noise by customers and staff at these events. The type of music (jazz) did not necessitate loud music and they followed advice set by the

musician's union keeping to minimum noise levels. He added that anti-social behaviour in the area was not due to the pub or its clientele. He observed that the council's policy was to encourage live music in the City.

- DF stated that he was speaking as a resident of the city (in his own personal capacity) and he outlined how the pub offered music and was a draw to people outside of Brighton. It offered an opportunity to upcoming musicians to gain valuable experience. He added a statement from a young musician who had been able to play in the pub and develop skills – this enabled young people to learn and be nurtured by experienced musicians. In his opinion this was not a suburban area, in his time he had not seen disturbances by customers of the pub, in fact many are actually local residents. He does not believe that there is a public nuisance or any public disorder that are caused by the pub. He referred to the positive aspect of providing live music and the cultural value to the area.

Officers Closing Observations

SC stated that all parties had been heard from and questions had been made and set out the options available to the panel. Conditions from the original license in 2005 could be updated but must be clear, precise, enforceable, and appropriate. She reminded the panel that if minded to, they can add conditions under section 1778 of the licensing act. In deciding which of these powers to invoke it is expected that licensing authorities should so far as possible seek to establish the causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should be appropriate and proportionate. She advised the panel referred to 11.16 to 11.23 of the Section 182 guidance which gives powers of a licensing authority on the determination of the review.

- EF nothing further to add.

Applicant's Closing Statement

- CH stated that whilst the cultural issues can be considered this should not override the licensing objectives, he did take the objectives were related to the pub only. He agreed that it was a balancing act between satisfying the business opportunities and the residents' peace of mind. He disagreed that the pub did not cooperate with RV as suggested. He asked again to look at the terms of the petition, he felt that the residents' experience in the process was unsatisfactory. He added that other licensee holders in the area had not received complaints. He added that they were satisfied with the way that the process had been conducted.
- RV wished to find a resolution and set out the way forward, they felt that the current conditions were not effective. Consistency of operation was required for all parties. This about controlling the louder music particularly late at night.

JK added that that they would not have taken this action if some negotiation had been possible and referred to a letter received, in her opinion was not friendly.

Licence Holders Closing Statement

- AG stated that there was a lack of clarity in terms of what the applicants want. Would ask to bear in mind that the decision bears in mind an evaluation of what is acceptable is in a particular location. There were many people that supported the venue and the city

benefited from this venue. He added that only proportionate and appropriate conditions should be made and set out the business implications.

- TG referred to the letter which stated that a property dispute was a statutory obligation. His issue with the expert report which did not contain the relevant evidence/ data.
- AMM they were very proud owners of the venue, which is run very professionally, and they go above and beyond the licence conditions. The sound limiter does work and is on 24 hours a day. They have been open to mediation and there is a lack of evidence, indeed counsel officers had not reported any issues. They have clearly demonstrated that they are responsible operators.
- AWC reiterated that he was not regular club DJ, and the music was very varied, he did monitor and control the music when he was in the pub.

Comments from legal advisor to the Panel

- RS reminded the panel of section 52 of the licensing act which set out that they must take such steps as they consider appropriate for the promotion of the licensing objectives which are paramount to their considerations. They should have regard to the statement of licensing policy and the statutory guidance, and they need to consider whether there is a public nuisance after hearing the evidence presented. If so, they should consider what action is appropriate and proportionate as set out in the guidance.
- The Chair stated that the panel would retire to make their decision and were accompanied by the legal advisors and the clerk to the committee who would have no say in the decision making. The decision would be made in writing within 5 working days.

4 PARIS HOUSE REVIEW PANEL REPORT

RE: Licensing Act 2003 – Licensing Panel Hearing Notification of the Determination of Panel.

Licensing panel hearing held in person on Friday 10th May 2024 in respect of the review of a premises licence in respect of premises known as Paris House, 21 Western Road, Hove BN3 1AE.

The panel has considered this application for review, relevant representations, submissions and statements, noise diaries and other additional information, including videos. The panel has listened carefully to all submissions made at the hearing. The panel has had regard to the Licensing Act 2003, Statutory Guidance and the Statement of Licensing Policy.

The review is brought by 4 local residents based on the prevention of public nuisance, and prevention of crime and disorder licensing objectives. Two representations were received from the Licensing Authority & Environmental Protection Team outlining their history with the premises. Nine representations were received in support of the review, one representation was neutral and one hundred and thirty representations were received opposing the review. A large number of emails were received with the same wording which was treated as a petition in support of the premises consisting of 1646 emails.

The main grounds for the review are noise disturbance caused by live and recorded music played within the premises and noise caused by customers both inside and outside the premises before and after 23:00 hours. Anti-social behaviour is also complained of from

customers of the premises. The review called for action to be taken to address these issues either revocation or imposition of better and more effective conditions to protect residents. A noise report was also submitted by the applicants which proposed stricter conditions.

The panel heard submissions and arguments from all parties over the course of almost eight hours. Questions were asked of all the parties.

In presenting their case the applicants highlighted the following:

- The most relevant issue was the noise disturbance for some since 2019. All avenues including mediation had been exhausted. Applicants were disturbed in their homes by the noise and found it hard to sleep. In one case their health was adversely affected. The noise was definitely coming from the Paris House. Representations supported this.
- The attitude of the licence holders was considered at times intimidatory and unhelpful. There was denial of any problem.
- Officers were not able to witness noise nuisance as not able to come out when noise complained of. Recording equipment was installed but not in correct place so could not be used.
- The noise report stated level of music especially at night was an issue and the noise limiter not effective and bypassed.
- Conditions would permit premises to continue without causing a nuisance.
- The noise has been less since the end of March due to the review application submitted.
- Need and cultural arguments are not relevant and cannot override the licensing objectives.

The above is only a brief summary and a large amount of written evidence was submitted with the application and subsequently which has been considered by the panel.

The two officers for the responsible authorities of licensing and environmental protection made their representations to the panel. They stressed that a statutory noise nuisance was not witnessed and that there was no clear evidence of a breach of conditions or undermining of the licensing objectives. That did not necessarily mean there was no issue. They had made over 20 visits and the premises were not warned in advance. Updated conditions could assist in resolving the issues.

In presenting their case, the solicitor for the licence holders and licence holders highlighted the following:

- They do not cause a public nuisance. Officers' visits had established this. Account had to be taken of the area which was noisy. The evidence including that of the noise expert was not determinative and not consistent. People living closer were not disturbed.
- There was no crime or disorder associated with the premises. The police had made no representation.
- They wished to maintain the status quo. Any further conditions would make the business unviable.
- They were professional and established operators who had turned premises around.
- The premises were an important cultural asset to the community. The overwhelming level of support received in response to the review testifies to this.

- The DJ conducted regular noise patrols, took noise readings and was not exceeding the levels set by the noise limiter which was in use all the time. Doors and windows were closed during live and recorded music. Live music did not take place after 22:00 hours.
- The outside seating area including the fold down benches at the side was closed before 23:00 hours and seating disabled. People were permitted to take drinks outside on the pavement after 23:00 hours and should be allowed to continue to do so to prevent spiking. No evidence that causing an issue and they were monitored.

Again the panel recognises this is a brief summary and has considered the witness statements and other documentation provided in support of the premises.

The panel must take such statutory steps under the Licensing Act in response to the review as are appropriate to promote the licensing objectives. The panel has considered our Statement of Licensing Policy and enforcement approach and the S182 Statutory Guidance in relation to reviews. The panel must establish if the licensing objectives have been undermined. It must therefore assess if there has been public nuisance and/or crime and disorder associated with these premises. The panel appreciates that there are strong feelings on both sides and the volume of documentation submitted for this review is unprecedented.

In terms of crime and disorder, the panel does not believe that there is any crime or disorder associated with the premises and notes there is no representation from the police in support of the review.

On balance the panel does not consider that public nuisance is associated with these premises. Overall, taking into account all the evidence submitted, the panel does not consider that what is complained of amounts to a public nuisance in the licensing sense in this location in terms of degree, consistency or severity. In reaching this conclusion the panel gives weight to the following factors. The area itself is a busy, vibrant city centre location with many other licensed and retail premises and thus a level of noise is inevitable. The evidence of noise disturbance is not sufficiently widespread or consistent to amount to a public nuisance in our view; there are many representations from residents who live closer to the premises than the applicants who are not disturbed by noise from the premises including those who live immediately next door. The representations from the environmental protection officer and licensing officer do not corroborate the applicants' complaints or establish the existence of a noise nuisance or breach of any conditions despite over 20 visits to the premises. The noise expert report is not conclusive as to public nuisance in the panel's view and we noted he faced some difficult questions from the licence holders as to the detail of the report which raised doubts about some of the content including the 'heart of glass incident'. Furthermore, we do not consider the report can be considered independent as it was commissioned by the applicants. The panel heard from the established DJ to the premises who was clear he made regular noise checks and patrols and that the noise limiter was in constant use. The doors and windows were closed during performances of live and recorded music. It was stressed that no significant changes had been made to the premises entertainment during the past month when it was noted by the applicants that things have been quieter.

In view of its findings the steps the panel may take to promote the licensing objectives are limited. However, the current licence is old and some of the conditions are not as clear and precise as they could be. In particular that relating to the sound limiter is very basic. Given the assurances by the DJ and licence holders that the sound limiter was in effective operation

during DJ sets and recorded music, we consider it is appropriate therefore to replace it with the following condition which was discussed with the premises when they met the licensing officers and was acceptable to them:

The installed Sound Limiter Device shall be set and approved by an Environmental Protection Officer from Brighton and Hove City Council. Once set, the limiter shall be locked and tamper free. Access to this device will be made available and adjustments made should noise complaints be received. All recorded music and DJ sets shall be plugged into this Sound Limiter Device to limit the music level.

As an advisory rider the panel wish it to be stressed that the condition currently on the licence that the outside area shall be closed and cleared by 23.00 hours relates to the external seating areas now covered by the current pavement licence and should also include the two benches at the side of the premises which are within the demise of the premises. The licence holders should continue their regular checks inside and outside the premises to ensure that both people and entertainment noise is not constituting a nuisance as is required under the licence.

Please note: This determination does not take effect until the end of the period given below for appealing against the decision or, if the decision is appealed against, the time the appeal is disposed of.

The minutes of the panel will be available on the Council's website under the heading 'Council and Democracy'.

Appeal Rights

(Section 181 and schedule 5 of the Licensing Act 2003)

1. The licence holder may appeal against the decision made.
2. The applicant for review may appeal against the decision made.
3. Any person who made a relevant representation in relation to the application may appeal against the decision made.

All appeals must be made to Magistrate's Court, Edward Street, Brighton, within 21 days of deemed delivery of this letter. Delivery will be deemed to have been effected on the second working day after posting.

Yours faithfully

The meeting concluded at Time Not Specified

Signed

Chair

Dated this

day of