

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

10.00am 6 JANUARY 2009

COMMITTEE ROOM 3, BRIGHTON TOWN HALL

MINUTES

Present: Councillor Lepper (Chairman); Harmer-Strange and Simson

Officers: Rebecca Sidell (Lawyer), Jim Whitelegg (Senior Environmental Health Officer) and Jane Clarke (Democratic Services Officer)

PART ONE

81. TO APPOINT A CHAIRMAN FOR THE MEETING

81.1 Councillor Mrs J Lepper was appointed Chairman for the meeting.

82. PROCEDURAL BUSINESS

82a Declaration of Substitutes

82.1 There were none.

82b Declarations of Interest

82.2 There were none.

82c Exclusion of the Press and Public

82.3 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 of 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 100(1) of the Act).

RESOLVED – that the press and public be not excluded from the meeting.

83. THE HUB, 129 ST JAMES STREET, BRIGHTON, BN2 1TH

- 83.1 The Panel considered a report of the Assistant Director of Public Safety, regarding an application for a new premises licence under the Licensing Act 2003 for The Hub, 129 St James Street, Brighton.
- 83.2 Mr Kara, the applicant, and Mr Perkins, Solicitor for the applicant, attended the hearing to speak in favour of the application. Mr McMillan, Inspector Harris and Chief Inspector Walker from Sussex Police, Ms Bricknell, Environmental Protection Officer for Brighton and Hove City Council and Dr Thomas, a local resident, attended the hearing to speak against the application.
- 83.3 Mr Whitelegg, Licensing Officer for Brighton and Hove City Council began by summarising the application as set out in the report and highlighted that the premises had previously operated a licence with café/bar conditions until November 2007. The business was closed due to financial difficulties and in January 2008 the Premises Licence elapsed. In March 2008 the Cumulative Impact Policy was introduced and the applicant subsequently applied for a new licence for the premises. Mr Whitelegg explained the implications of the special policy and also noted that the premises is immediately below residential accommodation and as such new licences should not normally be granted if the premises have amplified or live music. He stated that objections had been received but that there was no significant previous history for the café/bar. Finally Mr Whitelegg stated that the basement premises known as The Ghetto was a separately licenced premises.
- 83.4 The Chairman asked if there were any questions regarding Mr Whitelegg's statement and a Panel Member asked what the operating hours on the previous licence were. Mr Whitelegg replied that the hours were 09.00 – 23.00 everyday.
- 83.5 The Chairman invited representations from the responsible authorities and with the agreement of all parties, Mr McMillan from Sussex Police began by distributing papers to demonstrate the number of calls made to the Police for the St James Street area between 1st June 2008 and 1st December 2008.

He felt that granting a licence for this premises would not promote the licensing objectives, in particular the Prevention of Crime and Disorder and the Prevention of Public Nuisance. He also felt that it was likely that this Premises Licence, if granted, would give rise to a negative cumulative impact as it was situated in the Cumulative Impact Area.

Mr McMillan noted that the premises is surrounded by over 30 licenced establishments and there were already problems in the St James Street area, which was clearly saturated. He felt that increasing the number of outlets in the area would increase the problems associated with alcohol.

Mr McMillan felt that the application failed to demonstrate that there would be no negative cumulative impact and he requested that the Licensing Authority refuse the application on these grounds.

- 83.6 The Chairman asked if there were any questions about the representation from Sussex Police and a Panel Member asked if the figures for the newly distributed papers covered the area from the Old Steine to Upper Rock Gardens. Mr McMillan confirmed that this was the sample area used, but from experience felt that approximately 90 per cent of those calls originated from the lower half of the area around where the premises was situated.
- 83.7 Mr Perkins, Solicitor for the applicant, asked Mr McMillan if he had any evidence to suggest that this application would create a negative cumulative impact and Mr McMillan replied that it was an assumption based on the figure demonstrated and the evidence from other, similar establishments in the area.
- 83.8 Ms Bricknell, Environmental Protection Officer for Brighton and Hove City Council began by her representation by stating that the premises was situated in the Cumulative Impact Area and that applications would normally be refused unless the application could show there would be no negative cumulative impact from the granting of the licence. Ms Bricknell stated that she had met with the applicant to discuss the licence and conditions attached, and did not feel that this was the case.

Ms Bricknell felt that the suggested conditions on the licence to prevent excessive noise and public nuisance would be ineffective and not easily enforced and would therefore result in breeches of the licensing objectives.

- 83.9 The Chairman thanked Ms Bricknell for her representation and asked if there were any questions. A Panel Member asked Ms Bricknell why she thought this premises would create a public nuisance and she replied that complaints had already been received from residents who lived above the premises about customers from the basement club gathering outside the building to smoke. Ms Bricknell felt that any additional customers generated by The Hub would greatly increase the problems being experienced.

Mr Perkins asked Ms Bricknell if her concerns would be resolved if live and recorded music was taken off the licence application. Ms Bricknell confirmed that it would resolve her concerns about noise nuisance, but not the concerns about public nuisance.

- 83.10 Dr Thomas began her representation by stating that if this new licence was granted it would extend the permitted areas of alcohol consumption and would be against the Cumulative Impact Policy. Dr Thomas noted that this was a largely residential area and residents had the right to enjoy a peaceful home life. She noted that the suggested conditions on the licence were commonplace for licenced premises in the area, but were failing in preventing problems of public nuisance and crime and disorder.

Dr Thomas highlighted that the onus was not on the objectors to prove that the premises would cause a negative cumulative impact but for applicants to prove that their premises would not. She felt that in this instance, the applicant had failed to show how the application would uphold the licensing objectives and urged the Licensing Authority to refuse the licence application.

- 83.11 The Chairman thanked Dr Thomas for her representation and noted that there were no questions.

83.12 Mr Perkins began his representation on behalf of the applicant by stating that Mr Kara had no connection with the previous owners of the premises or with the basement club known as The Ghetto. He noted that this was a small premises with a maximum capacity of 40 and that only background music would be played. It was felt that due to the size and nature of the premises, it would not create a negative cumulative impact.

It was explained that Mr Kara was applying for extended hours because he believed that a closing time of 23:00 would result in many customers leaving the premises at the same time, which could result in a noise problem. Mr Kara felt that closing later would allow customers to leave over a longer period and reduce any potential problems.

Mr Perkins stated that the suggested conditions for the licence were robust and appropriate and would result in no negative cumulative impact if the licence was granted. It was noted that Mr Kara was an experienced Premises Licence Holder and would ensure that the premises was operated correctly.

He went on to say that the Police had no evidence to suggest that this premises would create a negative impact and in fact the business had operated on five Temporary Event Notices in the last year and none of these events had resulted in complaints being received about the premises. Mr Perkins put this forward as evidence that the business would not create a negative cumulative impact.

83.13 The Chairman asked if there were any questions and a Panel Member asked Mr Perkins to clarify the maximum capacity for the establishment. Mr Perkins confirmed that East Sussex Fire and Rescue Service had stated that the safe limit for the premises was 40 including staff.

83.14 A Panel Member asked if the applicant had any experience of refusing entry to a premises sixty minutes before closing time and Mr Perkins replied that the licenced door staff would have proper training for these circumstances.

83.15 A Panel Member was concerned about health and safety issues and asked if it was appropriate to keep all of the windows in the premises closed. Mr Perkins replied that this was being proposed to contain any sound from the café/bar and that a ventilation system would be installed. The fire escapes would be separate and so there were no foreseen health and safety issues.

83.16 The Chairman asked what type of event would be held on the twelve special occasions where a later closing time was requested and Mr Perkins replied that these dates would likely be used for drinks receptions or wedding receptions.

83.17 The Chairman asked if there was an internal access door from the café/bar to the basement club, and Mr Perkins confirmed that there was not.

83.18 A Panel Member asked what nature of food sales would occur in the café/bar and Mr Perkins replied that the premises would not be food led but would mainly be coffee sales during the day and alcohol sales in the evening.

- 83.19 Mr McMillan then asked whether licenced door staff would be available for special functions that took place between Monday and Thursday, and Mr Perkins confirmed that the applicant would be happy to do this.
- 83.20 Dr Thomas asked how the applicant intended to deal with possible queues that could arise outside the premises from people waiting to enter and Mr Perkins replied that the door staff would be responsible for managing the numbers of people outside the premises to an acceptable level.
- 83.21 The Chairman thanked Mr Perkins and asked all parties to sum up.
- 83.22 Mr Whitelegg stated that St James Street had been identified as a hotspot for crime and disorder and the policy that had been put in place to deal with this was not up for discussion at this Panel meeting. Licensed premises in the city centre were causing significant problems simply due to the numbers of people congregating in certain areas. Mr Whitelegg reiterated the implications of the special policy and the adjacent residential accommodation, and reminded the Panel Members that if they were minded to grant, any conditions placed on the licence had to be effective and enforceable, and if they were minded to refuse, valid reasons had to be stated as to why they felt conditions would be ineffective in promoting the licensing objectives in this instance.
- 83.23 Ms Bricknell stated that with the withdrawal of live or recorded music from the licence application, and with the windows and doors kept closed, most of her concerns about noise pollution would be resolved.
- 83.24 Mr McMillan from Sussex Police stated that the proposed conditions were unworkable and unenforceable and would create a similar premises to many others in the area, where problems were already being experienced. Mr McMillan felt that the granting of this licence would result in a negative cumulative impact.
- 83.25 Dr Thomas stated that the policy was in place to protect the rights of residents from the problems associated with anti-social behaviour. She noted that the proposed conditions were commonplace in many establishments, but had failed to prevent problems occurring. It was highlighted that although the maximum capacity for this premises was 40, the footfall through the door would likely be far higher.
- 83.26 Mr Perkins stated that the policy was being misinterpreted and that the Panel Members should consider if it was likely that a negative cumulative impact would result in the granting of this licence. Mr Perkins felt that there was no evidence to show that this was likely, and therefore the licence should be granted. He felt that the conditions would be effective and noted that residents had an opportunity to request a review should any problems arise after the licence had been granted.
- 83.27 **RESOLVED** – that the application be granted subject to the conditions as proposed by the applicant, with the following amendments:
- a) That the operating schedule be amended to read:

B Films	Everyday 09:00 – 00:00
L Late Night Refreshments	Everyday 23:00 – 00:00
M Supply of Alcohol	Everyday 09.00 – 00:00
O Hours Premises are Open to Public	Everyday 09.00 – 00:30

1. On the day of commencement of British Summer Time only – one hour to be added to the relevant Saturday finish time.
2. The standard hours to be extended by one hour on not more than 12 occasions per year upon giving not less than 7 days written notice to the Police of their intention to do so upon the holding of any pre-booked event, and on Christmas Eve, Christmas Day, Boxing Day, New Years Eve and Day, Spring, May and August Bank Holidays, Good Friday, Easter Saturday, Sunday and Monday, St George's Day, St Patrick's Day and any other declared Holiday by one hour.

b) That the following conditions be amended to read:

1. The premises will employ not less that one SIA registered door supervisor from 22:00 on any day when the premises are open at that time until 15 minutes after the premises shall be closed and cleared and at all times (a) contract for a Mobile Support service with an SIA registered organisation and (b) join the Business Crime Reduction Partnership and participate in any "Exclusion Scheme".
2. There shall be no provision of any live or recorded music, or any music by a DJ or similar.
3. No patrons shall be admitted to the premises with 60 minutes of the anticipated closing time on any night the premises shall be open after 23:00 hours.
4. No alcohol shall be taken from the premises for consumption outside;
- 4a. No alcohol shall be sold for consumption off the premises (i.e. No off-sales).

84. THE GROSVENOR CASINO, 9 GRAND JUNCTION ROAD, BRIGHTON

84.1 This application was withdrawn.

The meeting concluded at 12.05pm

Signed

Chair

Dated this

day of