

BRIGHTON & HOVE CITY COUNCIL

**LICENSING COMMITTEE
(Licensing Act 2003 Functions)**

10.00AM – FRIDAY 18 JULY 2008

**COUNCIL CHAMBER
HOVE TOWN HALL**

MINUTES

Present: Councillor C Theobald (Chairman); Councillors Fryer, Hamilton, Harmer-Strange, Hyde, Kitcat, Lepper (Deputy Chair), Marsh, Older, Pidgeon Watkins and West.

Apologies: Councillors Cobb and Young.

Also in attendance: Tim Nichols, Head of Environmental Health & Licensing, Rebecca Sidell, Lawyer and Christian Brown, Democratic Services Officer.

PART ONE

13 PROCEDURAL BUSINESS

13A Declarations of Substitutes

13.1 There were none.

13B Declarations of Interest

13.2 There were none.

13C Exclusion of Press and Public

13.3 The Committee 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 Schedule 12A, Part 5A, Section 100A(4) or 100 1 of the Local Government Act 1972 (as amended).

13.4 **RESOLVED** - That the press and public be not excluded from the meeting – except for decision making.

14. APPLICATION FOR A PREMISES LICENSE UNDER THE LICENSING ACT 2003 – BIG BEACH BOUTIQUE LIMITED, MADEIRA DRIVE, BRIGHTON

14.1 The Panel considered a report of the Assistant Director, Public Safety, regarding an application for a Premises Licence under the Licensing Act 2003 for Big Beach Boutique Limited, Madeira Drive, Brighton.

14.2 Mr Doug Simmonds attended the Committee to represent the applicants, Big Beach Boutique Limited. Mr Roy Pennington attended the Committee to represent the Kingscliffe Society. Ms Annie Sparks, Divisional Environmental Health Officer, attended the Committee to represent Environmental Health and Ms Susan Lee, Environmental Health Officer attended to represent on the grounds of public safety.

14.3 The Licensing Officer summarised the application. He stated that the representations received cited concerns in relation to Public Safety, Cumulative Impact and the prevention of public nuisance. He stated that any conditions imposed should be tailored, and that concern to prevent public nuisance should be balanced against the wider cultural benefits of the community generally.

14.4 Ms Annie Sparks, stated that she was concerned when that application was first submitted that the applicants had not adequately addressed issues in relation to public nuisance. She stated that she had met with the applicants and now felt satisfied that Environmental Health's concerns had been dealt with, so she was withdrawing the representation on the basis of the following conditions:

1. Sound checks shall be carried out on Friday September 26th 2008, and Saturday September 27th 2008 between the hours of 11:00 and 14:00 (Subject to Production Schedule). Sound Checks will last for no longer than 20 minutes in duration with a maximum of one soundcheck per hour. This shall be done to the satisfaction of the Licensing Authority.

2. Noise Pollution will be recognised as a potential problem and noise levels will be monitored and adjusted if necessary. Noise pollution shall be assessed, monitored, and managed in accordance with the Noise Management Plan agreed with the Licensing Authority.

3. A further background noise survey shall be conducted at least three weeks prior to the event. The methodology and format of the survey shall be agreed with the Licensing Authority. The background noise survey shall be representative of the time periods that the events are being held.

4. Noise assessments shall be carried out by the applicant at representative sensitive locations. These locations shall be agreed with the Licensing Authority. The noise monitoring programme conducted by the applicant during the events shall be agreed with the licensing

authority. This shall cover the duration, frequency, and location of the noise monitoring. It shall also include noise monitoring period times, noise frequencies, and noise parameters. All monitoring results shall be recorded, and retained on site. These results shall be made available for inspection by the Licensing Authority. The noise monitoring programme conducted by the applicant during the events shall be agreed with the licensing authority at least two weeks prior to the event.

5. The music noise levels (MNL) when assessed at the production stage, during sound checks or during the event when measured 1 metre from the façade of any noise sensitive premises:

- Between 15:00 – 21:45 will not exceed the background level by 15dB(A) over any 15 minute period.
- Noise from music will be inaudible within noise sensitive premises (with windows open in a typical manner for ventilation), except between 15.00 and 21:45 Friday 26th September and 15.00 and 21.45 Saturday 27th September and the agreed soundcheck periods.
- Special attention will be given to the two bass octaves centred around 63Hz & 125Hz. Maximum noise levels with regard to these frequencies shall be agreed with the Licensing Authority at least two weeks prior to the event.

6. All microphones and amplified entertainment shall be controlled via a noise limiting device. This shall be set at a level to be agreed by the Licensing Authority.

7. Local residents shall be sent a letter from the applicant at least seven days before the event opening. The letter shall include the following information:

- The dates and times of the set up and breakdown activities
- Dates and times of sound checks and tests of the public address system
- Times of background music
- Times for the Fat Boy Slim performance and any other support acts
- Details of a hotline complaint number

The final content and proposed distribution of the letter shall be agreed with the Licensing Authority prior to sending out.

8. A timetable detailing the build and strike for the event shall be agreed with the Licensing Authority eight weeks prior to the event. The timetable shall include the times that the various stages of the build and strike will be taking place and shall detail noise mitigation measures to prevent noise nuisance to neighbouring residents.

9. Signs shall be displayed at the entrances and exits advising the public that they are in a residential area and to keep noise to a

minimum.

10. Deliveries, waste water and toilet cubicle service, and refuse movement and bottle emptying shall be prevented between 23.00 and 08.00 (subject to Production Schedule).

11. The PA system will be under the control of a competent engineer at all times. All visiting engineers will be under the supervision of a house engineer.

12. The licensee will provide a point of contact to the Director of Environment for the duration of the event by nominating a named person and telephone number.

13. The sound system shall be operated at all times to the satisfaction of the Director of Environment.

14. Designated qualified personnel shall be present at the sound control position for the duration of the event for the purpose of ensuring that the above condition is complied with.

15. A telephone complaints hotline will be made available for the duration of the sound checks and concert. Should complaints of noise arise, at any time during the event, the promoters acoustic representative will visit the area of complaint and appropriate action will be taken. The Environmental Health & Licensing Officers on site will be informed of any complaints as soon as they are received.

It was noted also that the amended operating schedule satisfied Ms Susan Lee, Environmental Health Officer, and that she was withdrawing the representation with regard to public safety as the applicants had agreed to the 3 further conditions as set out below.

1. The licence holder must ensure that the event takes place in accordance with the document known as the "event management plan" as submitted by loud sound. Any variations of the event management plan must be discussed with, and agreed by, members of the Safety Advisory Group.

2. Items of street furniture and other fixtures, which are situated in the audience area, are to be removed or fenced off, so as not to pose a hazard to audience members, to the satisfaction of relevant council or emergency services representatives.

3. The issue of a licence is subject to final agreement of all responsible authorities to confirm that the measures as specified in the Event Management Plan and those agreed by the multi agency safety advisory group.

14.5 It was confirmed to the Committee that after a similar event by the applicants last year on New Year's day, one complaint was received by

the Pollution Control Team. It was also confirmed to the Committee that the letter drop area would need to be wide enough to encompass all properties that could be subject to noise nuisance. It was confirmed to the Committee that if conditions were not adhered to that the event could be stopped and closed; however, it was noted, with 22,000 people present suddenly stopping the event could have very significant public safety problems. It was confirmed that council employees would be on site to ensure that the event was well managed.

- 14.6 It was confirmed to the Committee that there were no representations made by either the Police or the Fire & Rescue Service. Ms Lee Confirmed to the Committee that there would be council officers on-site to look at issues in relation to public safety especially in relation to electric current. It was confirmed to the Panel that the sending of the letter was to be the sole responsibility of the applicant. The content of the letter content would have to be agreed with Environmental Health Officers as would the streets to be on the mailing list. The letter would be sent seven days before the event.
- 14.7 It was confirmed to the Committee that the background noise level could be 55-60 decibels at times, it was confirmed that EHOs would carry out noise level surveys. It was confirmed to the Committee that the council's noise guidance had agreed levels for the prevention of public nuisance in an area such as this and that if the noise levels were unreasonable on the day officers would request that the volume be reduced. It was stated that last year there were inadequate numbers of sound engineers at the event and that any requests made by officers often had slow responses. It was confirmed to the Committee that the closest noise sensitive premises were likely to be around the southern end of Burlington Street.
- 14.8 Mr Pennington spoke to the letter submitted by Mr Hainsworth of the Kingscliffe Society. In addition, he stated that he was concerned about the security of the beach huts and the obstruction and loss of the seafront.
- 14.9 Mr Pennington stated that the reason that there had not been more letters of complaint following on from the last event was that people had probably gone away on the day. He stated that there was a feeling that an event at this time of the year would produce more nuisance as windows would be open.
- 14.10 It was confirmed to the Committee that under local legislation, the council had powers to close the beach at certain times of the year.
- 14.11 Mr Simmonds stated that he was representing the applicants. He stated that Mr Jim King sent his apologies for not being able to attend the hearing.
- 14.12 Mr Simmonds stated that the event had been in planning for a considerable time and that there was still work to do, he stated that the application was an ongoing development and that the applicant had worked within the timetables required by legislation. He stated that there

had been considerable consultation with a safety advisory group which included the Police. He stated that as there were now no representations from statutory authorities, he stated that the Committee could be confident in the granting of a licence. He stated that the licence is conditional and that until everything is satisfactory to the council, the licence would not be handed over.

- 14.13 Mr Simmonds explained to the Panel that information relating to the electrical supply was addressed on page 30 of the Event Management Plan. He stated to the Committee that the applicants were well aware that the 40 minute time lapse between a noise complaint and the response to it at the previous event was not satisfactory. He stated that this was the reason why the number of staff had increased, in particular sound engineers and that a call centre would be set up. He stated that it would be safe for 22,000 people to attend the event. He stated that the vast majority of the acts would be at the eastern end of Madeira Drive well away from the Cumulative Impact area – he stated that the only part of the premises in the CI area was the box office and that no licensable activities would take place in the CI area. He stated that the show would only finish an hour after dark. Mr Simmonds hoped that the event would be a success for Brighton.
- 14.14 It was confirmed to the Panel that alcohol would be sold until the site closed at 10pm despite the last acts scheduled to finish at 9.45pm. This was to ensure a gradual dispersal of the patrons of the event. He also confirmed that there would be people all around the site marshalling - he stated that there would be security on site and that the beach huts would be protected under the security operation remit.
- 14.15 Mr Simmonds stated that he would need to call the applicant with regard to the selling of food as there were contradictions between page 25 and page 31 of the Event Management Plan.
- 14.16 It was confirmed that this event was to have a capacity of 22,000 people, which was 2,000 more than the previous event held on new year's eve. It was confirmed to the Committee that reason that not every single section of the Event Management Plan was provided, was because those sections did not relate to licensing.
- 14.17 The licensing officer made closing observations and that interested parties made their closing statements. Mr Simmonds, after making a call to the applicant, confirmed that the switchboard number would be a local number that was to be issued two weeks before the event. He stated that the switchboard would be operated by four members of staff. He confirmed that food service was to stop at 10pm along with the alcohol, in order to create a slower dispersal of patrons from the premises. He confirmed that the beach would be closed at midday on the day of the first even and, that the closure order for the road would be effective the day before the event and the day after.

14.18 **RESOLVED** – That the application, as amended with the conditions agreed with the Environmental Health Officers, be granted.

The Committee were pleased that the applicants had worked with Environmental Health in order to mitigate the issues pertaining to public nuisance and public safety. Therefore, the Committee felt that they had heard sufficient information to grant the application.

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

The meeting concluded at 1.30pm

Signed

Chairman

Dated this day of

2008

