

LICENSING PANEL
(Licensing Act 2003 Functions)

Agenda Item 51
Brighton & Hove City Council

Subject: Review of a Premises Licence under the Licensing Act 2003

Premises: Whelan's Lion & Lobster
24 Sillwood Street
Brighton
East Sussex
BN1 2PS

Licence Holder: Gary Joseph Whelan & Patrick Finnarr Whelan

Date of Meeting: 16 September 2009

Report of: Assistant Director Public Safety

Contact Officer: Name: Sarah Ranger Tel: 29-5801
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Wards Affected: Regency

FOR GENERAL RELEASE

1. PURPOSE OF THE REPORT:

- 1.1 To review a Premises Licence for **Whelan's Lion & Lobster** under the Licensing Act 2003.

2. SUMMARY OF THE REVIEW PROCESS:

- 2.1 Existing licence attached at Appendix A.
- 2.2. Brighton & Hove City Council is both the relevant licensing authority and a responsible authority in respect of any premises, and may in its capacity apply under Section 51 of the Licensing Act 2003 for a review of any premises licence in respect of the premises.
- 2.3 An application was received by the Licensing Authority from Environmental Protection to review the licence granted to the premises known as **Whelan's Lion & Lobster, 24 Sillwood Street, Brighton, East Sussex, BN1 2PS.**
- 2.4 The grounds for the review relates to the following Licensing objectives:
- Prevention of Public Nuisance.

Full details of the grounds for the review are attached in Appendix B.

2.5 At this hearing the licensing authority must:

- Consider the application made in accordance with Section 51
- Consider any relevant representations
- Take such steps (if any) as are considered necessary for the promotion of the Licensing objectives. These steps are:
 - to modify the conditions of the licence
 - to exclude a licensable activity
 - to remove the designated premises supervisor from the licence
 - to suspend the licence for a period not exceeding 3 months, or
 - to revoke the licence.

And for this purpose the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added. It may provide that the modification or exclusion have effect for a specified period not exceeding 3 months. The determination, if not completed at the hearing, shall be within 5 working days of the hearing. Such determinations do not have effect until after the appeal period or, if an appeal is lodged, until after the appeal is disposed of.

3. REPRESENTATIONS RECEIVED:

3.1 Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. A summary appears below:

3.2 Seven representations have been received from local residents on the grounds of the Prevention of Public Nuisance and Crime and Disorder supporting the review application submitted by Environmental Protection seeking the amendment of conditions.

3.3 Twenty representations have been received from local residents on the grounds of Prevention of Public Nuisance supporting the extension of the patio's opening hours.

3.4 Full details of the representations supporting the extension of the patio's opening hours are at Appendix C and full details of the representations supporting the review application are attached at Appendix D. A map detailing the addresses of the persons who have submitted representations supporting the extension of the patio's opening hours are in Appendix E. A map detailing the addresses of the persons who have submitted representations supporting the review application and their location in relation to the premises are attached at Appendix F.

4. COMMENTARY ON LICENSING POLICY:

4.1 The following extracts from Brighton & Hove Licensing Policy are considered relevant to this application and numbered as they appear in the policy:

General

1.2 The licensing objectives are:-

- (a) Prevention of crime and disorder;
- (b) Public safety;
- (c) Prevention of public nuisance;
- (d) Protection of children from harm.

1.3 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focussed on matters which are in the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity.

1.5 Each application will be given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act

1.15 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act, and the conditions attached to licences, certificates and permissions will be focused on matters which are within the control of the licensee and will centre on the premises themselves and their immediate vicinity. When considering these terms and conditions the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

In respect of the prevention of crime and disorder

- 2.2 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority recommends that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door staff so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection.
- 2.3 It is expected that the designated premises supervisor (DPS) will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises.
- 2.5.1 **Diversity of premises**
This attempts to ensure that there is a mix of the different types of licensed premises, particularly in areas where there is a high density of such premises. It will provide resilience against changing trends and attract a more diverse range of customers from different age groups, different communities of interest and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This in turn may have a positive effect in reducing people's fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time, may create opportunities for violent crime and public disorder and therefore encourages mixed use venues, varying hours of business and a wider age balance.
- 2.5.4 **Geographical spread**
Spreading the siting of large venues (those with a capacity in excess of 250 people) across the city reduces the problems of dispersing large numbers of people leaving premises in close proximity at the same time. Taxi and bus queues can be flash points for public disorder and violence. A good geographical spread coupled with increased taxi ranks and bus stops near venues reduces waiting time and the potential for crime and disorder.

2.5.5 Care, control and supervision of premises

The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The Police will consider the applicants, objecting to the application where appropriate. The Police will suggest crime prevention measures in relation to, for example, the internal layout of the premises, close circuit television, help points, lighting and security staff. The Police may ask for conditions which support such measures to be imposed when planning or licensing applications are granted, e.g. type of licence, capacity, opening time restrictions.

- 2.8 Enforcement issues will be considered in the light of any relevant enforcement policies and close links will be sought between all enforcing authorities, e.g. through the use of intelligence sharing and strategy groups. Such protocols may lead to the targeting of agreed high risk and problem premises whilst permitting a lighter touch approach in respect of well run premises.

In respect of the prevention of public nuisance

- 4.4 Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.
- 4.5 Staggered closing times will not be used to combat binge drinking disorder and antisocial behaviour. Zoning will be avoided. A general principle of later opening so that customers can leave for natural reasons, slowly over longer periods will be promoted, to prevent unnatural concentrations of people. The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.
- 4.8 Regard will be had to any history or likelihood of nuisance. Generally, favourable consideration will be given to applications for later hours in the city centre and on busy main roads. Powers may be exercised to impose conditions as to hours of opening in order to avoid unreasonable disturbance to residents of the neighbourhood.

Strategic Integration

- 6.5 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include the use of closed circuit television cameras, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening.

6.7 This policy avoids duplication with other regulatory regimes wherever possible.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

The Licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the new regime

Finance Officer Consulted: Karen Brookshaw Date: 27.08.2009

5.2 Legal Implications:

The licensing authority must act to promote the four licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The licensing authority must have regard to its statement of licensing policy and the guidance issued by the Secretary of State in carrying out its functions.

Lawyer Consulted: Rebecca Sidell

Date: 27.08.2009

5.3 Equalities Implications:

Diversity is valued and strong, safe communities are vital to future prosperity. Licensing policy aims to protect children from harm including sale and supply of alcohol to children.

5.4 Sustainability Implications:

Licensing policy aims to prevent public nuisance and develop culture of live music, dancing and theatre.

5.5 Crime & Disorder Implications:

Licensing policy aims to prevent crime and disorder and protect public safety.

5.6 Risk and Opportunity Management Implications:

Licensing is a crucial business and employment opportunity and unnecessary regulation might lead to legal challenge.

5.7 Corporate / Citywide Implications:

The success of the city's tourism strategy requires a safe, attractive city centre to improve competitiveness. The Act may significantly change night time economy.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A – Part A of Premises Licence.
2. Appendix B – Review Application.
3. Appendix C – Representations supporting the extension of the patio's opening hours (A-K) and (O – W).
4. Appendix D – Representations supporting the Review Application (L – N) and (X – A1).
5. Appendix E – Map of area and of location of people who have made representations supporting the extension of the patio's opening hours.
6. Appendix F – Map of area and of location of people who have made representations supporting the review application.

Documents in Members' Rooms

1. Environmental Health & Licensing Service, Brighton & Hove City Council (2008): The Licensing Act 2003 – Brighton & Hove City Council: Statement of Licensing Policy.

Background Documents

1. Environmental Health & Licensing Service, Brighton & Hove City Council (2008): The Licensing Act 2003 – Brighton & Hove City Council Statement on Licensing Policy.