

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

**10.00am 3 AUGUST 2009**

**COMMITTEE ROOM 3, BRIGHTON TOWN HALL**

**MINUTES**

**Present:** Councillor Lepper (Chairman); Hyde and Pidgeon

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

**PART ONE**

**28. TO APPOINT A CHAIRMAN FOR THE MEETING**

28.1 Councillor Lepper was appointed Chairman for the meeting.

**29. PROCEDURAL BUSINESS**

**29a Declarations of Substitutes**

29.1 There were none.

**29b Declarations of Interests**

29.2 There were none.

**29c Exclusion of the Press and Public**

29.3 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(1) of the Act).

29.4 **RESOLVED** – That the press and public be not excluded.

**30. MANGE TOUT, 81 TRAFALGAR STREET, BRIGHTON**

- 30.1 The Panel considered a report from the Assistant Director of Public Safety regarding an application for a new premises licence at Mange Tout, 81 Trafalgar Street, Brighton, BN1 4EQ (for copy see minute book).
- 30.2 Mr Le Bon and Mr Pluquet, joint applicants, attended the hearing to make representations in favour of the application. Mr Daly, a local resident, attended the hearing to speak against the application. Ms Crowhurst from North Laine Community Association attended to support Mr Daly.
- 30.3 The Senior Environmental Health Officer began by summarising the application and stating that one representation had been received from a local resident regarding Prevention of Crime and Disorder and Prevention of Public Nuisance. Representations had also been received from Sussex Police and the North Laine Community Association, but these had been withdrawn after conditions had been agreed. There was no history of noise complaints at the premises. The application was situated in the Special Stress Area and although applications were not subject to the presumption of refusal, it was expected that due regard would be given to the circumstances of the area by the applicant. It was felt this had been achieved on this application by the inclusion of café/bar style conditions on the operating schedule.
- 30.4 The Chairman asked if there were any questions of the Senior Environmental Health Officer's statement.
- 30.5 Councillor Hyde asked if café/bar style conditions on the licence ran contrary to off-licence sales. The Senior Environmental Health Officer clarified that a condition had been agreed by the applicant with the North Laine Community Association that sale of alcohol would only take place to patrons seated at tables, but this would not apply to off-licence sales, which were a separate issue and could not be bound by this condition.
- 30.6 Mr Daly asked questions about the conditions that had been agreed with the applicant and the North Laine Community Association. The Chairman stated that these questions could be asked of the applicant at a later stage, but it was now the opportunity for all parties to ask questions of the Senior Environmental Health Officer's statement. Mr Daly confirmed he had no questions about this statement.
- 30.7 The applicants confirmed they did not have questions about the Senior Environmental Health Officer's statement.
- 30.8 Mr Daly began his representation and stated that although he lived within the Special Stress Area, it was his perception that the noise and disturbance in this area had become worse rather than better. He lived above the shop he owned and noted that he regularly had to clean the frontage of his property because of drunks who had urinated on it. Mr Daly felt that Trafalgar Street was residential as much as it was commercial, and already had several licensed premises located on the street. His most pressing problem with Mange Tout was the fact that there were to be eight tables outside the premises, and therefore situated very near to Mr Daly's living room window. He was concerned about the potential for noise disturbance and asked for a condition to be placed on the licence so that alcohol could only be sold with food.

- 30.9 The Chairman asked if there were any questions of Mr Daly's representation and Councillor Pidgeon asked if there were to be eight tables or eight chairs outside the premises. Mr Daly stated that it would be eight tables and sixteen chairs.
- 30.10 The Chairman asked Mr Daly to confirm that he lived over the shop he owned on the street, and he did. She asked him at what times was the anti-social behaviour on the street at its peak and Mr Daly replied that with the introduction of the Licensing Act there was no peak time because of staggered closing hours. The disturbance could start as early as 23:00 hours and continue until 03:30 hours. It also used to be restricted to Fridays and Saturdays but could now occur throughout the week. The Chairman noted that the proposed Operating Schedule for Mange Tout would mean they ceased trading at 23:00 hours.
- 30.11 Councillor Pidgeon asked Mr Daly how he was sure noise disturbance was coming from customers at Mange Tout and Mr Daly stated that the stationary drinkers were the biggest problem, and the outside seating area had the potential to increase this and the disturbance that was being caused.
- 30.12 Mr Le Bon asked whether Mr Daly objected to a nearby café which had recently been granted an alcohol licence. Mr Daly confirmed he had not, but this was because the premises was further away from him and less likely to cause him nuisance.
- 30.13 Mr Le Bon began his representation and stated that Mange Tout was currently a small café which prided itself on good quality food. The applicants wanted to supplement this with good quality wines and beers, and hoped that the service of alcohol without food would act as a draw to encourage customers into the café, who then might purchase food as well. The applicants also wanted an off-licence to be able to occasionally sell the high quality beers and wines they served to their customers.

The eight tables outside had been inspected and assessed by a Highways Officer, and a licence had been granted for this. The applicants had originally asked for four tables, as was stated in the licence application, but the Officer had advised them that there would be enough space for eight tables and so they had increased the amount accordingly. Mr Le Bon noted that the tables were useful when the weather was fine, but he did not expect them to be used very much in the winter, and evenings were often too cold to sit outside and eat.

Mr Le Bon stated that he wanted a good relationship with his neighbours, but economic conditions were difficult at the moment and the café needed to be able to sell alcohol in order to survive. He added that he and his partner had worked in the industry for several years and were experienced restaurateurs, and he confirmed he would not allow the premises to become a noise nuisance to his neighbours.

- 30.14 The Chairman asked if there were any questions of the applicant's representations and Councillor Hyde asked if the operating schedule allowed for sixteen people to be seated drinking outside and Mr Le Bon confirmed this.
- 30.15 Councillor Pidgeon asked what times the chairs and tables would be put out and taken in and Mr Le Bon replied that they were currently taken out around 08:30 hours and taken in at 18:30 hours.

- 30.16 Councillor Pidgeon asked who was responsible for training staff at the establishment and Mr Le Bon replied that it would be him and Mr Pluquet, although added that they rarely had anyone else working for them.
- 30.17 Councillor Pidgeon asked if any consultation had taken place with residents and Mr Le Bon stated that he had met with some nearby residents, but no formal consultation had taken place.
- 30.18 Councillor Lepper stated that the main problem seemed to be the outside area and asked if a condition had been agreed that no drinks would be served outside after 22:00 hours, and whether that meant no one would be sitting outside after 22:00 hours. Mr Pluquet confirmed that some conditions had been agreed with the North Laine Community Association, and the applicants had agreed that no alcoholic drinks would be taken outside for consumption without food after 22:00 hours, and sales of alcohol would finish at 22:00 hours.
- 30.19 Councillor Lepper asked if customers would be asked to come inside after 22:00 hours and Mr Le Bon stated that he could understand the concern and would ask customers who did not have food to come inside after 22:00 hours, but noted it would be difficult to move people if they were finishing off a meal.
- 30.20 Councillor Pidgeon asked what time the chairs and tables would be brought in if the licence was granted. Mr Pluquet replied that they would like the premises to be open Fridays and Saturdays from 09:30 to 23:00 hours, with tables cleared away after this. He noted that if it worked they would also like to open later on Thursdays.
- 30.21 Councillor Pidgeon asked if there were any barriers around the chairs and tables and Mr Le Bon said that it was very expensive to do but they had been thinking about constructing a barrier to protect customers from the wind.
- 30.22 Councillor Pidgeon asked how blind people could gain access down the street and Mr Pluquet replied that they were following the street access regulations of the Council and adhering to these. He added that if a blind person was having difficulty outside their premises they would help them to pass safely.
- 30.23 The Senior Environmental Health Officer asked for clarification on one of the conditions agreed with the North Laine Community Association, which stated "beer and wine only to be sold on the premise". He asked for clarification that this did not mean the applicants were agreeing to withdraw their off-sales application. Mr Pluquet stated that this condition referred to the fact that no spirits would be sold at the premises, and only beer and wine would be available for both on and off sales. The applicants still wanted to apply for off-sales.
- 30.24 Mr Daly asked why the licence applied for was so broad in its scope if the premises was supposed to be food led. Mr Le Bon stated that they had agreed to several conditions that now limited the sale of alcohol and ensured the premises would operate as a café/bar style premises. He reiterated that the premises was food led and there was no interest, and no capacity, to stock and sell alcohol in large quantities.

- 30.25 Mr Daly asked what measures had been taken to protect the café's nearest neighbours. Mr Le Bon stated that they had met with the residents who lived above the café and had not received complaints from them. He noted that they had not made representations for the Panel hearing either.
- 30.26 Ms Crowhurst, on behalf of Mr Daly, asked whether amplified live music had been applied for and Mr Le Bon confirmed that it had not.
- 30.27 Councillor Lepper asked the Senior Environmental Health Officer to confirm what was being applied for and he stated that it was an application for the sale of alcohol on and off the premises between the hours of 09:00 to 23:00 hours with an extension on New Years Eve to 03:00 hours. He added that a condition had been agreed that no drinks would be taken onto the outside terrace after 22:00 hours unless consumed with food. Mr Le Bon confirmed that this was his understanding.
- 30.28 Mr Daly stated that in their representation the North Laine Community Association had asked for a condition that no extensions be allowed on the licence, and this had been agreed to by the applicants. Mr Le Bon did not recall discussing this condition with the Association. The Senior Environmental Health Officer stated that the premises was entitled under law to apply for 12 Temporary Event Notices in one year, which would permit them an extension of hours for each Notice. If the premises applied for one at New Years Eve it would be granted under delegated authority unless there was strong evidence to suggest it would undermine one of the four licensing objectives.
- 30.29 The Senior Environmental Health Officer began his final statement and stated that economic need was not a licensing consideration but was a matter for the market. The application was in the SSA and the Panel must have regard to this when making their decision. He added that the Environmental Health Protection Act 1990 was the primary tool for managing noise nuisance and not licensing law, and any conditions placed on the licence should not be difficult or imprecise to enforce. Any detrimental financial impact of conditions should be in proportion to the licence applied for.
- 30.30 Mr Daly began his final representation and stated that whilst he believed in the current owners' good intentions, he felt the conditions were very loosely phrased, which would enable a future, less responsible owner to turn the premises into an alcohol led establishment. He asked that a condition be placed on the licence that no alcohol could be consumed outside unless with food.
- 30.31 Mr Le Bon began his final representation and stated that he understood Mr Daly's fears but the licence would not change the way in which the establishment was run and the focus would remain on food sales. The licence was needed to remain in competition with other cafés and restaurants in the vicinity and the off-sales licence was simply to compliment the sales of high quality beers and wines at the premises. Mr Pluquet added that the concept remained a brasserie café and there was no bar in the premises. Alcohol could only be served at tables, and it was in the interests of the business to serve this with food as often as possible, rather than just alcohol alone.
- 30.32 **RESOLVED** – That the application for a new premises licence is agreed as follows:

Recorded Music

Every day: 09:00 to 23:00 hours  
New Years Eve: 09:00 to 03:00 hours

Sale of alcohol on and off the premises  
Every day: 09:00 to 22:00 hours  
New Years Eve: 09:00 to 03:00 hours

Hours premises are open to the public  
Every day: 09:00 to 23:00  
New Years Eve: 09:00 to 03:00

The following additional conditions have been attached to the licence:

1. Digital CCTV and appropriate recording equipment to be installed, operated and maintained throughout the premises internally to cover all public areas with sufficient numbers of cameras as agreed with Sussex Police. CCTV footage will be stored for a minimum of 28 days, and the management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is requested for the prevention and detection of suspected or alleged crime. The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy and will be changed when British Summer Time starts and ends. (NB: This condition will take effect within six weeks of the licence being granted).
2. The premises will employ a mobile support unit, where all personnel carrying out security will be registered with the Security Industry Authority.
3. Customers going outside (principally but not exclusively smokers) will not be permitted to take glassware with them unless in sealed containers for off sales consumption away from the premises. Customers may smoke and consume drinks from glasses within the designated terrace area directly in front of the premises but not on the pavement beyond this area.
4. The opening times of the premises (09:00 to 23:00) will be an express condition of the licence with exception for New Year's Eve late opening.
5. The premises will operate a Challenge 25 policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The only forms of ID that will be accepted are passports, driving licences with a photographic or Portman Group, Citizen Card or Validate proof of age cards bearing the 'PASS' mark hologram. The list of approved forms of ID may be amended or revised with the prior written agreement of Sussex Police and the Licensing Authority without the need to amend the licence or conditions attaching to it.
6. Suitable and sufficient signage advertising the Challenge 25 policy will be displayed in prominent locations in the premises.
7. All staff members engaged, or to be engaged, in the selling of alcohol on the premises shall receive the following training in age-restricted sales:

- Induction training which must be completed, and fully documented, prior to the sale of alcohol by the staff member; and refresher training thereafter at intervals of no less than 8 weeks.
  - All age-restricted sales training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police and Brighton & Hove Trading Standards Service upon request.
8. The premises shall at all times maintain and operate an age-restricted sales refusals book. This book shall be available upon request to police staff, Local Authority staff and Trading Standards.
  9. Only beer and wine shall be sold on and off the premises.
  10. Alcohol will only be served to those people seated at tables.
  11. There will be no amplified live music.
  12. Bins containing glass bottles to be put out in the morning.

The Panel noted that the applicants had accepted the conditions specified by Sussex Police. They further noted that the sale of alcohol was restricted to beer and wine and that there would be café bar conditions attached to the licence. They also noted that last orders for on-sales of alcohol would be at 22:00 hours and that no drinks would be taken outside to be consumed at the outside tables after 22:00 hours. Further that the premises would be closed at 23:00 hours with the exception of New Year's Eve.

The panel felt that these conditions along with those on the operating schedule would be sufficient to uphold the licensing objectives.

The meeting concluded at 11.30am

Signed

Chairman

Dated this

day of