

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

2.00pm 18 AUGUST 2009

COUNCIL CHAMBER, BRIGHTON TOWN HALL

MINUTES

Present: Councillor Mrs Cobb (Chairman); Lepper and Simson

Officers: Annie Sparks (Environmental Health Manager), Liz Woodley (Senior Lawyer - Housing & Litigation) and Jane Clarke (Democratic Services Officer)

PART ONE

38. TO APPOINT A CHAIRMAN FOR THE MEETING

38.1 Councillor Mrs Cobb was appointed Chairman for the meeting.

39. PROCEDURAL BUSINESS

39a Declarations of Substitutes

39.1 There were none.

39b Declarations of Interests

39.2 There were none.

39c Exclusion of the Press and Public

39.3 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).

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

40. BLANCH HOUSE, ATLINGWORTH STREET, BRIGHTON, BN2 1LP

- 40.1 The Panel considered a report from the Assistant Director of Public Safety regarding an application for a variation of a premises licence under the Licensing Act 2003 (for copy see minute book).
- 40.2 Ms Blanch, the applicant, and Mr Perkins, Solicitor to the applicant, attended the hearing to speak in favour of the application.
- 40.3 Councillor Lepper noted that in the representation from Mr Boustany it was alleged that the notice to inform residents of the intention to vary the licence was not prominently displayed where it could be clearly read. She asked for clarification from the applicant as to where the notice had been displayed.

Ms Blanch responded that the notice had been placed in the most prominent place possible, which was in the first bay window of the premises by the main entrance.

The Solicitor to the Panel asked Ms Blanch to clarify at what height this was displayed and she indicated that it was at eye level, and was next to other notices regarding this premises.

- 40.4 The Environmental Health Manager began by summarising the application and stating that the premises was not situated in the Cumulative Impact Area or the Special Stress Area. One representation had been received relating to Prevention of Public Nuisance and three noise complaints had been received since 2005, although no statutory noise nuisances had been witnessed.
- 40.5 The Chairman asked if there were any questions of the Environmental Health Managers' statement and Councillor Simson asked for clarification on the times of opening to the public, as it appeared on the Operating Schedule that the premises wanted to close at midnight, but continue to serve alcohol to the public until 02:00 hours. Mr Perkins, on behalf of Ms Blanch, replied that the premises was currently open twenty-four hours a day and this would remain the same. He stated that Operating Schedule should read 00:00 – 23:59 to ensure clarity.
- 40.6 Mr Perkins began his representation and stated that the premises had been operating as a hotel for many years, and in the ownership of Ms Blanch for the last nine years as one of Brighton and Hove's first boutique hotels. There were three separate licences currently in operation including a twenty-four hour residential licence for hotel guests, an old style supper licence for customers in the restaurant area, which operated until 00:30 hours, and a bar licence for the general public, which operated until 23:00 hours. The variation was to standardise the hours of alcohol sales across the premises and to remove some of the restrictions on non-residential customers.

Mr Perkins added that the premises was also seeking a licence to show films to their residents, which would be used on an occasional basis once or twice a month, and a late night refreshments licence in order to provide snacks to residents who requested a late supper. He stated that the situation for local residents in the area would remain the same with the granting of this licence. There would be no additional noise or disturbance caused as the bar area was relatively small and between seventy and eighty percent of the clientele were hotel guests who could currently drink under the twenty-four hour residential licence.

Mr Perkins stated that the conditions offered on the Operating Schedule were sufficient to deal with any public nuisance issues caused by the clientele and there would be no live music played at the premises. He noted that background music would be played, and a DJ would be used in the restaurant area for pre-booked events, but only until 00:00 hours.

Mr Perkins stated that the applicant did not recognise the noise disturbance allegations within the letter of representation as originating from her premises. The back door of the premises remained closed and the front door was operated under controlled entry. The applicant regularly monitored the exterior of the property and Mr Perkins added that the applicant lived with her family in the basement at the front of the premises, and so was very aware of any noise disturbance created on the street. He noted that a public house with a large garden was in very close proximity to both the hotel and the objector's residence, and suggested that this may be the cause of the objector's noise complaints.

Mr Perkins noted that the objector had complained about the visibility of the legal notice, but asserted that this was clearly and prominently displayed, and evidence of this was that the objector was able to make a representation on time. He stated that the applicant did not feel the application would substantially change the situation at the premises, and noted that any problems in the past had been resolved quickly and amicably. The applicant believed she had a good relationship with her neighbours, and was disappointed that the objector had felt the need to make a representation, but felt that the area was becoming increasingly busy anyway. She also did not recognise the allegation that residents were listening to music late into the night as there was no facility in the rooms for this to happen.

Mr Perkins agreed that in the past an incident had occurred where a smoker had used the fire escape to smoke on, but this had been quickly resolved and had not happened again. He confirmed that the restaurant would only be in operation on Friday and Saturday nights as there was no demand for service on week during this economic climate. Any empty bottles at the premises were disposed of on the following morning, and the regular refuse collection also took place in the morning between 07:00 hours and 10:00 hours. Given the nature of the premises and the conditions proposed on the Operating Schedule, Mr Perkins felt this was a very minor and sensible variation, and asked the Panel to grant the licence as varied.

- 40.7 Ms Blanch addressed the Panel and added that the bar mainly served cocktails to a more mature clientele. The front door to the premises was strictly managed and a door bell had to be used in order for customers to gain access. She re-iterated that she had a good relationship with her neighbours and felt that this was the first time she had not been able to resolve a problem amicably.
- 40.8 The Chairman asked if there were any questions of the applicants' representation and Councillor Simson asked if the external area shown on the map of the report was in use. Ms Blanch stated that this held an extractor fan which only ran when the kitchen was in operation. It would not be running late at night as there would be no hot food served after 23:00 hours, and any late night snacks that were prepared would likely be served cold.

- 40.9 Councillor Simson asked if the coffee room on the plan was for staff use and Ms Blanch confirmed this, stating that it was used for storage and could not be accessed by customers of the premises.
- 40.10 Councillor Simson asked how many covers the restaurant had and Ms Blanch replied that they could seat a maximum of thirty-six people, although due to the current financial climate the numbers they actually served were much lower, and the restaurant was not currently open mid-week. She stated that the focus was on a fine dining experience and it would not be appropriate to play loud or intrusive music in such an environment.
- 40.11 Councillor Simson asked how the premises would ensure that customers moved on from the street late at night if the licence was granted. Ms Blanch stated that the hotel was not like a club where large numbers of people left at the same time and there would be a natural and staggered dispersal of patrons on most days of the week. She recognised that dispersal may become an issue when the premises held events, but noted that they already hired experienced door staff to ensure that customers moved on as quietly as possible. Mr Perkins added that a proposed condition was to refuse entry to new customers sixty minutes before closing time which would aid the peaceful dispersal of customers.
- 40.12 Councillor Lepper asked the applicant to confirm when empty bottles were disposed of and Ms Blanch replied that in the past bottles had been emptied around 19:00 hours, but as this had caused problems this practice had been stopped and the bottles were now emptied the next morning.
- 40.13 Councillor Lepper asked the applicant to demonstrate which area on the map belonged to Blanch House. Ms Blanch explained that the green area was the garden of the public house, and the white area adjoining both properties was a yard owned by the public house. She noted that the hotel had no outside space for customers at all.
- 40.14 The Chairman asked for clarification of the times refuse was collected and Ms Blanch stated that the collection should be everyday, but frequently was not. Depending on the contractors schedule the collection could take place any time between 07:00 hours and 10.30 hours, but she confirmed that the premises was very aware of seagulls and the potential for mess they could cause, and so if the refuse was not collected the bins would be taken back into the premises again for storage.
- 40.15 The Chairman asked for confirmation of the times when bottles were emptied and Ms Blanch stated that it took place the next morning at around 10:00 hours. The bottles were stored under the bar of the premises until they could be disposed of.
- 40.16 The Environmental Health Manager began her final statement and noted that Blanch House had been operating for nine years. The variation was to allow the premises to open later to non-residents, to display films and to provide late night refreshments. Conditions had been offered on the licence to ensure the licensing objectives were upheld and she stated that any conditions on the licence should not replicate laws already in place that covered those issues.
- 40.17 Mr Perkins, on behalf of the applicant, stated that he had nothing further to add to their representation.

40.18 **RESOLVED** – That the variation of a premises licence under the Licensing Act 2003 is granted as applied for, subject to the conditions consistent with the Operating Schedule, but excluding the proposed Public Safety condition.

In rejecting the Public Safety condition, the Panel considered that it duplicated the legal responsibilities upon the premises owners and managers under the Regulatory Reform (Fire Safety) Order 2005. Paragraphs 10.15 to 10.18 of the section 182 guidance discourage licensing authorities from imposing conditions which duplicate requirements under other statutory regimes. Members also noted that it was no longer the practice of the Fire Service to “impose” numbers conditions.

The meeting concluded at 3.00pm

Signed

Chairman

Dated this

day of