

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

10.30am 27 OCTOBER 2009

COUNCIL CHAMBER, BRIGHTON TOWN HALL

MINUTES

Present: Councillor ; Lepper (Chairman), Older and Phillips

Officers: Ian Denyer (Highways Enforcement Officer); Jim Whitelegg (Senior Environmental Health Officer); Rebecca Sidell (Lawyer) and Penny Jennings (Senior Democratic Services Officer)

PART ONE

80. TO APPOINT A CHAIRMAN FOR THE MEETING

80.1 Councillor Lepper was appointed Chairman for the meeting.

81. PROCEDURAL BUSINESS

81a. Declaration of Substitutes

81.1 There were none.

81b. Declarations of Interest

81.2 There were none.

81c. Exclusion of Press and Public

81.3 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 100(1) of the Act).

82. JIMYINGS GROCERY, 44A GEORGE STREET, BRIGHTON

82.1 The panel considered a report of the Director of Environment regarding an application for a Highway Permission (Highways Act 1980) from Jimyngs Grocery, 44a George Street, Brighton (for copy see minute book).

- 82.2 It was noted that although the applicant had indicated their intention to attend they were not present at the meeting. The Chairman sought to determine that the applicant had received copies of papers for the meeting and had been aware of the date, time and venue for the meeting. It was confirmed that the applicant had been provided with that information.
- 82.3 Mr Denyer, The Senior Highway Enforcement Officer began by summarising the application stating that Officers had previously had delegated powers to determine highway applications, but a recent change in policy at Brighton & Hove City Council gave applicants the right of appeal to a Licensing Panel regarding A board applications.
- 82.4 A licence for this site had been issued under the previous policy arrangements, but amendments to the policy in April 2009 had disqualified this A board placement as it was more than five metres from the premises.
- 82.5 The applicant had held a licence for an advertising board in the position applied for since 2004. In that time there had been no significant incidents or complaints of breaches of legislation.
- 82.6 Officer opinion was that the proposed position did not constitute a significant obstruction or danger to highway users it was unclear however how the board would be monitored in future in order to prevent it being moved into the road or onto the a adjacent tactile paving. Previously, the situation had been monitored by a neighbouring shop but it did not appear that this would continue to be the case in future.
- 82.7 The Solicitor to the Panel addressed Members stating that a decision to grant the application would be contrary to policy, whilst the policy framework was not a rigid structure and exceptions could be made, valid reasons needed to be given as to why policy could be waived.
- 82.8 **RESOLVED** – That the Panel have decided to grant the application in this case as there are specific considerations and circumstances which apply to this application as follows:
- A. There are site specific reasons in that no nuisance has resulted from this use and although there are slight concerns in view of the close proximity of the board to newly installed tactile paving it is considered appropriate for officers to determine the location of the board.
 - B. There is a strong economic benefit to retaining the board in its current position.
 - C. It is important that there have been no safety issues raised concerning the board for the entire time it has been in situ and there are no Highways Department objections to its being placed on the highway.

The Panel are attaching a specific condition to this licence as follows:

1. The applicant must accept responsibility for monitoring the A board and ensuring it is monitored regularly at least three times a day at mid-morning, lunch time and mid afternoon to ensure that it does not cause a problem for highway users or safety issues for pedestrians.

83. THE GALLERY BISTRO, 116 CHURCH ROAD, HOVE

- 83.1 The Panel considered an application for a new premises licence under the Licensing Act 2003 for the Gallery Bistro, 116 Church Road, Hove (for copy see minute book).
- 83.2 Mr Simmons was present to represent and speak on behalf of the applicant, Miss Armstrong.
- 83.3 Mr Kellner spoke as and on behalf of neighbouring objectors.
- 83.4 Mr Whitelegg, Senior Environmental Health Officer explained that the premises did not fall within the Cumulative Impact Area and that the objections of the Environmental Protection Team had been withdrawn.
- 83.5 Mr Kellner stated that he lived with his brother and mother in a flat adjacent located to the side and above the premises. They had no objections to the manner in which the premises operated currently, but had concerns regarding potential penetration of noise and fumes late at night arising from patrons using the recessed undercover entrance doorway to their flat.
- 83.6 This recessed area was often used during the daytime as a refuge to smoke without being exposed to the elements by staff from the office located at 115 Church Road. Any south westerly prevailing wind blew the smoke directly into their flat. He had grave concerns that a greater nuisance would result from this area being used for the same purpose late at night, particularly as he did not believe that the bistro had an outside area which could be used for this purpose.
- 83.7 Mr Simmons explained that the premises would operate as a café bar rather than as drinking establishment with waitress service to tables. Drink would be provided with food and no drinking would be provided to those using the outside seating area to dine. Background music would be provided at what was predominantly an eating establishment. The premises would be rigorously controlled as would any noise levels emanating from it and from those leaving at the end notices would be posted inside indicating the controls placed on the premises.
- 83.8 The Solicitor to the Panel advised that in the event that the applicant wished to lodge an appeal that would need to be made to the Magistrate's Court, Edward Street, Brighton within 21 days of deemed delivery of the Decision letter.
- 83.9 The Panel decided to grant the application as applied for with the conditions on the operating schedule and those agreed with the Environmental Health Team.
- 83.10 The Panel noted that the application was made for inside the premises only and that there would be no alcohol sold or consumed in the outside area. They also noted that

the premises would operate with café bar conditions so there would be no vertical drinking.

83.11 **RESOLVED** – That the application applied for be granted with the operating conditions attached to the operating schedule and those agreed with the Environmental Health Team. The Panel put the following additional condition on the licence:

1. All tables and chairs in the outside area to be removed and put out of use after 23.00 hours each day.

The Panel felt the conditions would promote the licensing objectives, and added that should the residents become aware of any problems associated with the premises and the management failed to deal with them then they could contact the Licensing Authority for a possible review of the licence.

The meeting concluded at 12.00pm

Signed

Chairman

Dated this

day of