

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

10.00am 5 JANUARY 2010

COMMITTEE ROOMS 2/3, BRIGHTON TOWN HALL

MINUTES

Present: Councillor Cobb (Chairman); Marsh and Simson

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

PART ONE

108. TO APPOINT A CHAIRMAN FOR THE MEETING

108.1 Councillor Mrs Cobb was appointed Chairman for the meeting.

109. PROCEDURAL BUSINESS

109a Declarations of Substitutes

109.1 There were none.

109b Declarations of Interests

109.2 There were none.

109c Exclusion of the Press and Public

109.3 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, that 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).

109.4 **RESOLVED** - That the press and public be not excluded.

110. ONE STEP, OVEST HOUSE, WEST STREET, BRIGHTON

- 110.1 The Panel considered an application for a new premises licensing under the Licensing Act 2003 for One Step, Ovest House, West Street, Brighton (for copy see minute book).
- 110.2 Mr Andrawis and Ms Andrawis, co-owners of the premises, Mr Baker, Licensing Agent from Lockett & Co and Mr Light, representing the owners, attended the hearing to make representations in favour of the licence application. Ms Irving, Licensing Manager for Sussex and Inspector Harris from Sussex Police, Councillor Kitcat, on behalf of Mr Lessels, a local resident, and Ms Gianfrancesco from 'RU-OK? Young Persons Substance Misuse Service' (RU-OK) attended the hearing to make representations against the application.
- 110.3 The Senior Environmental Health Officer, Mr Whitelegg, began by summarising the application and stated that the application was for a new premises licence for off-sales from 08:00 to 23:00 hours and for the provision of late night refreshment from 23:00 hours to 05:00 hours. Representations had been received from Sussex Police, the Children's and Young Person's Trust, RU-OK and local residents on the grounds of Cumulative Impact, Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and Protection of Children from Harm. A petition had also been received but contained only one valid signature.
- Mr Whitelegg highlighted that licensing guidance in the Brighton & Hove Statement of Licensing Policy stated that the Cumulative Impact policy related to all new licence applications in the area and it was incumbent on the applicant to demonstrate that the application would cause no negative cumulative impact. Finally Mr Whitelegg stated that the premises currently had planning permission for office and not retail use, and this had been referred on to the Planning Enforcement Team. However, he noted that planning and licensing regimes were separate.
- 110.4 The Chairman asked if there were any questions and Councillor Marsh asked what planning permission was given on the current premises. Mr Whitelegg stated that the premises currently had permission for B1 and A2 usages, but not A1, which was retail use.
- 110.5 Councillor Marsh asked if the premises were in use at the moment and Mr Whitelegg confirmed they were currently operated as a shop.
- 110.6 The Chairman asked for clarification on the petition as to which signatures were valid and Mr Whitelegg confirmed that the only signature that was valid was the highlighted signature.
- 110.7 Councillor Kitcat asked if there had any breaches had occurred at the shop and Mr Whitelegg stated that a complaint had been received that the premises was selling hot food after 23:00 hours and a licensing visit had been made to the shop. Advice was given to the premises owners regarding late night refreshment requirements.

- 110.8 Ms Irving began her representation on behalf of Sussex Police and stated that she was the Head of Licensing for Sussex Police and directed all strategic activity across Brighton & Hove, and she spoke on behalf of the Chief Constable. She stated that Sussex Police strongly objected to the granting of this licence as it sat in the heart of the Cumulative Impact Area. The premises was very close to the Safe Space facility at St Johns Church and was in the same building as the RU-OK services.
- 110.9 Ms Irving highlighted the special policy regarding Cumulative Impact was adopted on 13 March 2008 and was developed on the assumption that any new licence applications in this area would like add to the negative impact already experienced. The police were concerned that this application would undermine the licensing objectives of Prevention of Crime and Disorder and Prevention of Public Nuisance.
- 110.10 West Street was a notorious area for crime and disorder and it was the police's view that the immediate area had reached saturation point and could not tolerate any more applications. There had been a recent increase in applications for West Street, which caused concern for the police, and it was their view that no matter how well run a premises might be, any application would now create a negative impact on the area as it would increase the supply of alcohol in a volatile area. There had also been a high incidence of glass bottles being used in violent crimes in the area.
- 110.11 The police also objected to the granting of a late night refreshment licence as this would adversely impact on dispersal of revellers from the immediate area, which would create further police resourcing issues. She added that late night food establishments were well known crime hotspots.
- 110.12 Finally, Ms Irving referred to an email that had been sent to the applicants indicating that the police would not make a representation following agreement of conditions. This had been an unauthorised email that was subsequently retracted, and the applicants had been informed of the revised position.
- 110.13 Inspector Harris began her representation and stated that she had worked for Sussex Police since March 2007. During this time she had built up a good understanding of licensing issues in the city. She stated that Operation Marble dealt with crime, disorder and public safety issues relating to alcohol consumption in the centre of the city, and the CIA closely mirrored the scope of this operation. Part of the operation include work with the Brighton Crime Reduction Partnership on a 'yellow card' system, whereby people could be issued cards for anti-social behaviour, and refused entry to participating establishments across the city if they were issued two cards within a 48 hour period. This type of strict control was necessary because the city centre was densely populated with revellers.
- 110.14 Inspector Harris agreed that crime had been reduced in the area, but felt that this was due to the strict controls on revellers, the strong Cumulative Impact policy and, as a result of this, well run establishments. However, despite the success in reducing crime figures, anti-social behaviour figures were not recorded in the same way and did not take into account the number of incidents that occurred in the CIA which resulted in a 'yellow card'. There had been 430 cards issued on West Street alone in the last 12 months. Inspector Harris believed that this demonstrated that the area

was still extremely busy and still had major policing issues that were not reflected in the figures.

- 110.15 A further problem in the immediate area was the high increase in serious injuries where a glass bottle had been used as a weapon. Inspector Harris believed that any new off-licence premises would be likely to sell alcohol in glass bottles, increasing the supply of this receptacle in the area. Concern was also raised over the late night food application. Much of the crime and disorder on the street occurred after 00:00 hours, and hot food establishments were hotspots for trouble and required intensive policing. Inspector Harris felt that the proposed use of a Mobile Support Unit for this application was a reactive rather than proactive measure and the application would undoubtedly place a large burden on the police to maintain order. She highlighted that a more recent problem of 'pre-loading' also caused the police concern, as more and more people were buying cheap alcohol from off-licences to get drunk before entering on-licensed establishments.
- 110.16 Finally, Inspector Harris stated that the police worked closely with RU-OK to help deal with the problem of alcohol abuse in young people. Operation Park dealt with young people involved in anti-social behaviour due to alcohol consumption and referrals were made to RU-OK, which was an essential and highly valued service.
- 110.17 The Chairman asked if there were any questions and Councillor Marsh asked if the premises was currently open. Inspector Harris stated that they operated as a newsagents currently without any licensed activities.
- 110.18 Councillor Marsh asked if any incidents had occurred at the premises and Inspector Harris replied that there had been no incidents. She added that the current owners were very co-operative, interacted well with the police and seemed keen to run their premises in a responsible manner.
- 110.19 Mr Light, on behalf of the applicants, asked if were true that the granting of a late night refreshment licence would not encourage people in the area to stay any later than currently. Inspector Harris disagreed with this as people were difficult to disperse in areas where hot food was available. Clubs in the area closed at 03:00 hours and many people already stayed in the area to purchase food and talk on the street. If the provisions for hot food were increased then more people would be encouraged to stay in the area rather than moving on. The concern was that large numbers of people would be congregating on West Street, which would create management issues for the police.
- 110.20 Councillor Kitcat began his representation on behalf of Mr Lassels, a local resident and stated that Mr Lassels strongly endorsed the police view. His objection related primarily to the negative cumulative impact this licence would cause and he felt that if this premises was allowed to stay open late at night, this would increase the numbers of people congregating on West Street.
- 110.21 As a local resident Mr Lassels was very aware of the activity on the street, the times at which problems peaked and the areas where the most trouble was experienced and he believed this application would contribute to crime and disorder problems on the street. Mr Lassels was also concerned about the issue of pre-loading and felt

that people would congregate around this premises whilst consuming alcohol or food and increase disturbance for residents. He was also concerned that the licensing objective of Protection of Children from Harm would be undermined as proxy sales were likely to occur here. Finally, Mr Lassels noted that the applicants marketed the premises as a community store, but he felt there was no demand from local residents for another licensed premises and he strongly urged the panel to refuse the application.

- 110.22 Ms Gianfrancesco from RU-OK and the Children's and Young People's Trust (CYPT) began her representation and stated that Ovest House mainly housed council services, all of which worked with children and young people. There was an advocacy service in the building that worked with vulnerable young people and a service run by the YMCA that supported housing services for homeless young people. Referrals to the services came from many routes and RU-OK were currently working with the police on Operation Park to deal with alcohol related anti-social behaviour by young people. RU-OK also followed up on cases where young people had been admitted to Accident and Emergency following alcohol abuse. Ms Gianfrancesco stated that there had been a significant increase in alcohol abuse in young people over the last few years.
- 110.23 The concern for the service and the CYPT was that the building had until now been a very safe space and an alcohol free environment, which would be undermined if this application was granted. There was a disturbing link between the availability of alcohol and the increase in alcohol abuse by young people, which had been highlighted by the recent Health Impact Assessment of Licensing study.
- 110.24 Lastly, Ms Gianfrancesco added that whilst young people were more likely to be the perpetrators of alcohol related crime and anti-social behaviour, they were also more likely to be the victims of such crime, and this problem had increased due to the issues of pre-loading and proxy sales.
- 110.25 The Chairman asked if there were any questions and Councillor Marsh asked how young people accessed RU-OK services. Ms Gianfrancesco replied that there was a separate front door for council services in the building, which was next to the One Step shop front.
- 110.26 Councillor Marsh asked what hours the services were open for and Ms Gianfrancesco replied that the services were open between 09:00 and 17:00 hours Monday to Friday, but group sessions were regularly held that lasted until 18:30 hours during the week.
- 110.27 The Chairman asked if it was part of a responsible attitude to alcohol to be able to avoid it even when it was available and Ms Gianfrancesco agreed that this was the case, and the service educated young people in this. However, the building was currently a safe space which reinforced the messages around alcohol and she felt this application would undermine this.
- 110.28 The Chairman asked if pre-loading was likely to occur on West Street as she believed this issue occurred mainly in peoples homes before they ventured to clubs in the city. Ms Gianfrancesco agreed, but highlighted that the beach front was very

close by and if young people were refused entry into the clubs they would often congregate on the beach and gain alcohol via proxy sales. She stated that evidence from referrals to the service, and from yellow cards issued to young people on West Street, supported this view.

- 110.29 Mr Light asked if there were many off-licensed premises already on West Street. Ms Gianfrancesco agreed there was but felt that adding one more premises would not help the situation and would negatively impact on it.
- 110.30 Mr Light asked what premises was next door to Ovest House. Ms Gianfrancesco replied that it was The Heist pub. She noted that this was an on-licensed premises however where underage people would be refused entry.
- 110.31 Mr Light asked if part of the message about alcohol was how to deal with it in a responsible manner, and asked whether a well run off-licensed establishment could demonstrate this. Ms Gianfrancesco agreed that the inside of the premises might be well run, but believed the application would contribute to the problems in the area outside.
- 110.32 Mr Light asked if the owners of One Step had offered to work with RU-OK in promoting and selling alcohol responsibly and she agreed they had.
- 110.33 Mr Light began his representation and stated that the premises was a community store and much more than a newsagent. The applicants had owned the premises for three months in which time they had refurbished it and installed a new CCTV system. They currently ran two other local shops, both of which were off-licensed, and had done so for the past 10 years, and so had ample experience in running an off-licensed premises.
- 110.34 Guidance in the Licensing Act 2003 stated that applicants should seek to enter into mediation with the responsible authorities before submitting a licence application and the applicants had done so in this case. The original application had been for a 24 hour licence as the Act recommended that alcohol sales should normally be permitted whilst the premises was open. However, after negotiation with the police this had been reduced to a terminal hour of 23:00 in order to address the particular problems of West Street. A number of conditions had also been requested by the police and agreed by the applicants in the pre-application discussions. Mr Light asked if these conditions could be distributed to the panel members and with the agreement of all parties, this was done.
- 110.35 Mr Light stated that the applicants had received a letter stating that the police would not object to the application if the applicants agreed to the proposed conditions, and the applicants amended the operating schedule accordingly before submitting the application. It was largely similar to a previous application that had been agreed for Seaview Stores, which was in the vicinity of One Step. The problem had occurred due to the police changing their view of the application, although there had been very few objections from the local community and no other objections from responsible authorities. Mr Light believed this was unfair to the applicants and stated that this was a well-run family business and the staff were well trained in licensing issues to

ensure the licensing objectives were upheld. He invited Mr Baker to speak further on training at the premises.

- 110.36 Mr Baker, Licensing Agent from Lockett & Co. addressed the panel on behalf of the applicants. He stated that his company provided training for all the staff at One Step and staff were required to read a training manual and pass a test before being allowed to serve alcohol. Each member of staff was provided with a personal training manual and the premises had agreed a condition to ensure that refresher training was conducted every 8 weeks.
- 110.37 Mr Light continued his representation and stated that a recently licensing inspection had noted that the shop was well run and there was a good training system already in place. A Challenge 25 policy would be run at the premises and a Refusals Book was already in place and being well used. The new CCTV system had 12 cameras and this was available to the police. All of the alcohol would be kept behind the counter and served by the staff and there was no opportunity to shop-lift alcohol. Mr Light did not believe the late night refreshments licence would encourage any more people into the area and refusing this licence would not stop people from using the shop as they would still be able to buy sandwiches, crisps etc. as they did currently in the premises. There was signage in the shop including a warning concerning proxy sales and the only proof of age that would be acceptable was photograph driving licences, passports or Citizen or Portman Group passes. Further measures to ensure the premises was well run was the provision of a panic button underneath the counter, and the availability of a Mobile Support Unit.
- 110.38 Mr Light referred to the proposed conditions that had been originally agreed with the police and stated that these conditions along with the shortened licensing hours would be sufficient to uphold the licensing objectives. Finally he added that whilst there had been a concern around the relevant planning permissions for the premises, this had now been resolved and all the relevant permissions were in place.
- 110.39 The Chairman asked if there were any questions and Councillor Simson referred to the proposed conditions, which she felt were similar to what would be expected of applications outside the CIA, and asked which conditions were specifically tailored to meet the needs of this area. Mr Light did not believe the conditions were usual for applications outside the CIA and referred to alcohol being kept behind the counter and the provision of a MSU as some of the conditions specifically tailored for the CIA. He added that these conditions were originally negotiated with the police to meet the needs of the area.
- 110.40 Councillor Simson referred to the number of staff available on the premises at any one time and felt concerned that this would not be enough for such a highly volatile area. Mr Light stated that staffing levels were determined by risk assessment and made according to health and safety and security issues. He felt that a blanket condition on the number of staff needed at the premises would not be subtle enough for the business needs of the store, but added that the owner would respond to any situation as appropriate.
- 110.41 Councillor Simson noted the applicants had a lot of licensing experience and asked why it was the case that there seemed to be confusion over when they were

permitted to sell hot food until. Mr Light stated there had been no problem with this. He confirmed that the premises was selling burgers after 23:00 hours, but these were sold cold for the customers to heat up at home. He added that the licensing officers had not observed a breach at the premises.

- 110.42 Councillor Simson asked what range of alcohol would be on sale and Mr Andrawis, the applicant, replied that he would sell beers, wines and spirits.
- 110.43 Councillor Simson asked if these would be available in glass bottles and Mr Andrawis confirmed they would.
- 110.44 Councillor Simson asked what hot food would be for sale and Mr Andrawis replied that only burgers would be available, which would be heated in a microwave on the premises.
- 110.45 Councillor Simson asked if Door Supervisors had been considered for the premises and Mr Andrawis replied that he had considered this and would hire Door Supervisors if it proved to be necessary. He added he was very willing to work with the police to ensure the premises was well run.
- 110.46 Councillor Marsh stated that within the CIA the onus was on the applicant to demonstrate how there would be no negative cumulative impact caused by their premises and felt that the applicant had so far failed to show this. She asked how the applicant would ensure there was no negative impact. Mr Andrawis replied that he was a responsible manager and would work closely with the police to ensure there were no problems associated with his premises. He added that he would accept a condition on the licence for Door Supervisors if the police felt this was necessary.
- 110.47 Inspector Harris asked if she had stated at the pre-meeting that the police may make a representation against the application as it was situated in the CIA and Mr Andrawis agreed this.
- 110.48 Inspector Harris asked if she had responded to the applicants about whether the police would object to the applicant and Mr Andrawis replied that he had spoke to the Licensing Officer for Sussex Police, who had indicated that the police would not object. He confirmed that he had not received a response from Inspector Harris in this regard.
- 110.49 Inspector Harris asked if the provision of hot food had been discussed at the pre-meeting as she believed it had not been. Mr Andrawis believed that he had indicated this intention at the pre-meeting.
- 110.50 Ms Irving asked if the coffee machine was available to use in the early hours of the morning and Mr Andrawis stated it was not used after 23:00 hours.
- 110.51 Ms Irving asked how incidents would be proactively dealt with at the premises. Mr Andrawis replied that a MSU was available and Ms Irving believed that this was a reactive provision that could only be called upon after the incident had taken place. Mr Andrawis replied that the company could provide support very quickly to an

incident at the premises and added that the panic button under the counter went directly to the police.

- 110.52 Councillor Kitcat asked what would stop the applicants from extending the hot food provision once the licence had been granted. Mr Light replied that there was nothing in the law to prevent this once a late night refreshments licence had been granted, however he added that if there were any problems with the premises and their practices then the licence could be reviewed.
- 110.53 Councillor Kitcat noted the provision of a MSU, but asked what would happen if they were dealing with a problem elsewhere in the city and could not respond so promptly. Mr Andrawis stated that there had never been a serious problem of disorder at the store; however the panic button under the counter would call the police directly in an emergency. He added that the safety of his staff was of paramount concern.
- 110.54 Mr Whitelegg began his final statement and stated that the premises licence application was in the heart of the CIA on West Street, which was a known hotspot for crime and disorder and public nuisance. The justification for the CIA policy was the high concentration of licensed premises in the city centre which were causing problems. The panel needed to consider whether the applicant had demonstrated there would be no negative cumulative impact resulting from his application and any conditions imposed on the licence needed to be clear, precise and enforceable. If the panel decided to refuse the application they would need to demonstrate why conditions would be ineffective in mitigating the negative impact of the licence.
- 110.55 Ms Irving began her final representation and clarified that the police did not have the power to grant or refuse a licence as this was at the discretion of the licensing authority. She stated that officers would always start negotiations from this position, and would therefore suggest appropriate conditions for a licence, whether they agreed in principle or not, as it was recognised the licensing authority may wish to grant or refuse a licence contrary to a police representation.

Ms Irving agreed that Sussex Police were taking a stronger stance on licence applications in the CIA, and especially West Street, as there had been a strong increase in the number of applications for this area, which was causing extreme concern in terms of police resources. The Cumulative Impact policy was introduced precisely for the reasons of increasing licence applications in certain areas and stretched police resources and Ms Irving did not believe that the applicants had demonstrated there would be no negative cumulative impact. She believed the area had reached saturation point and was in danger of becoming unmanageable for the police.

An email had been sent to the applicants indicating that the licence would be acceptable with conditions, but this had been sent erroneously and Ms Irving apologised for the confusion this may have caused. However, she stated that the police would stand by their strong stance for this area as they firmly believed that no amount of conditions would mitigate the problems that this licence would cause if granted. Finally Ms Irving added that no MSU service would be pro-active enough to

lessen the burden on the police, and she did not believe Door Supervisors would be effective in this regard either.

- 110.56 Councillor Kitcat began his final representation and stated that as Ward Councillor he was aware of the issues created by the negative impact of licensed establishments in the city centre, and recognised that the Local Action Team were extremely concerned about the situation. He highlighted that an application had recently been turned down on West Street due to the negative impact it would create and he urged the panel to do the same in this instance.
- 110.57 Ms Gianfrancesco began her final representation and stated that she was aware that the RU-OK service was surrounded by licensed premises but noted that the majority of these were on-licensed establishments. She believed that yet another licensed premises would have a detrimental effect on not just the young people using the service, but other young people in Brighton and Hove as well, as it was very difficult to effectively police and protect young people from the negative effects of alcohol misuse and alcohol related anti-social behaviour.
- 110.58 Mr Light began his final representation and stated that the applicants were responsible retailers with extensive licensing experience. Their desire was to support and serve the local community and there had been no objections from responsible authorities on public nuisance grounds. Many residents had not objected to the application and there was no evidence to suggest the application would undermine the licensing objective of public safety, which related to the environment within the shop rather than externally.

With regard to the licensing objective of protection of children from harm, Mr Light believed this condition would be adequately upheld by the conditions proposed on the licence, and the effective management of the shop. He recognised there were issues of accessibility of alcohol and young people, but stated that the staff would be well trained and a Refusals Book would be operated to ensure this was not a problem. He added that there would be no opportunity to shop-lift alcohol at this premises as it was stored behind the counter. Further measures to uphold this objective were that the owners of the store had agreed to ban on the request of the RU-OK service any young people from their store. Mr Light believed that the social message around responsible alcohol promotion at this store would be positive and beneficial for the area.

Therefore the police representation was based mainly around issues of crime and disorder. Mr Light did not believe that the application would increase the number of people using West Street as it was not a reason for people to visit the area. He felt that the main problems were created by on-licensed premises and added that this licence would finish at 23:00 hours, before most crime and disorder problems occurred. He added that there was no evidence to believe the applicants would sell alcohol irresponsibly.

Regarding the late night refreshments licence, Mr Light noted that the store was already open late at night and selling food products without incident, and he believed that the provision of a further hot food establishment on West Street would help to spread groups of people out rather than congregate in the few areas currently

permitted to sell hot food late at night. The store would not be selling alcohol at this time and therefore there would be no problems associated with this.

Mr Light stated that with the proposed conditions the application would have no negative cumulative impact for the area, and whilst he acknowledged the Cumulative Impact policy, he felt that no policy should be absolute, and believed that this application was an exceptional case. In the circumstances Mr Light believed the licence should be granted.

110.59 **RESOLVED –**

These premises are situated in the most sensitive part of the Cumulative Impact Area. We accept the evidence given by the Police, the Children's and Young People's Trust and other interested parties that even one more additional licensed premises in this highly stressed part of the Cumulative Impact Area will undermine the licensing objectives of Prevention of Crime and Disorder, Public Safety and Protection of Children from Harm.

We have considered the conditions proposed but feel that no amount of conditions imposed on this particular application would be effective in mitigating the problems that we consider it would add to.

We have particular concerns about the pre-loading of alcohol and the easy availability of glass bottles that can be used as weapons, and we have heard that there has been an escalation of the number of serious injuries caused by this type of crime.

We share the police concerns that the provision of late night refreshment will hinder the dispersal of people from the area. Therefore we are refusing this application.

The meeting concluded at 12.50pm

Signed

Chairman

Dated this

day of