

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

10.00am 4 MAY 2012

COMMITTEE ROOM 1, BRIGHTON TOWN HALL

MINUTES

Present: Councillors Sykes, Chair; Gilbey and Rufus

Officers: Jim Whitelegg, Senior Environmental Health Officer, Rebecca Sidell, Lawyer and Penny Jennings, Democratic Services Officer.

PART ONE

155. TO APPOINT A CHAIRMAN FOR THE MEETING

155.1 Councillor Sykes was appointed Chair for the meeting.

156. PROCEDURAL BUSINESS

156a Declaration of Substitutes

156.1 There were none.

156b Declarations of Interest

156.2 There were none.

156c Exclusion of the Press and Public

156.3 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 of the Act).

156. **RESOLVED** - That the press and public be not excluded from the meeting during consideration of any item on the agenda.

157. APPLICATION FOR A NEW PREMISES LICENCE : WHITEHAWK FOOTBALL CLUB, ENCLOSED GROUNDS, EAST BRIGHTON PARK, WILSON AVENUE, BRIGHTON

- 157.1 The Panel considered a report of the Head of Regulatory Services requesting that the Panel determine an application for a new premises licence under the Licensing Act 2003 for Whitehawk Football Club, the Enclosed Grounds, East Brighton Park, Wilson Avenue, Brighton.
- 157.2 Mrs J Irving, Licensing and Public Safety Manager, Peter Savil, Barrister at Law, Advocate for Sussex Police, Paul Betts, Chief Inspector Operations and Inspector Roy Apps were present representing Sussex Police. John Newcombe, Legal Adviser, Anne-Marie Williams, Whitehawk FC Event Manager, Anne-Marie Chebib, Select Security and Stewarding Ltd, Gareth Hunt, H2 Organisation Ltd, Technical Contractor, Kevin Keehan, Whitehawk F C Committee and Mark Turner, Whitehawk F C were in attendance on behalf of the applicants.
- 157.3 The Senior Environmental Health Officer, Mr Whitelegg stated that the application was for a new premises licence for Whitehawk Football Club which was located in the enclosed grounds of East Brighton Park, Brighton. The application proposed regulated entertainment (inc. plays, boxing and wrestling, performance of dance, live and recorded music) and sale by retail of alcohol every day from 12.00 until 11.00pm with late night refreshments from 11.00pm until 00.00hrs and opening hours of 12.00 until 00.00hrs. The proposed capacity of the site would be up to 4999 persons. The licence application was for a permanent licence, not one which was time limited. Subsequent to receipt of the application it had been amended to limit the number of music events to 1 Music Festival for up to 4999 attendees per year (for up to 3 days), whilst continuing to operate the Clubhouse at football fixtures as per the current usage which would include fundraising activities and guest receptions and staging a few smaller scale sporting events and family fun days.
- 157.4 Mr Whitelegg drew attention to the fact that in the submitted papers the applicant had referred to the Club House having an existing licence and selling alcohol. This was an error which had been acknowledged by the applicant in a subsequent e mail. The Club had a Club Premises Certificate which had been held for a number of years pre dating the Licensing Act 2003. This included the supply of alcohol and regulated entertainment until 23.00hrs. The applicants had indicated that if the premises licence were to be granted that the Club would relinquish the premises certificate and would run under the new licence.
- 157.5 The premises did not fall within the Cumulative impact Area or the Special Stress Areas. One representation had been received from Sussex Police concerned with the prevention of crime and disorder, prevention of public nuisance and public safety. Representations had also been received from the Environmental Protection Team and the Health & Safety Team which had included conditions relating to the prevention of public nuisance and public safety. However these representations had been withdrawn as the applicant had agreed to those conditions and had amended their operating schedule accordingly. A large part of the operating schedule concerned a planned event for the Jubilee weekend of 2 and 3 June. The applicant had agreed to the condition regarding lead in times for future events and this had been accepted by the

Environmental Health Team. The understanding reached about this condition was that it would apply for future events, not including the proposed event for 2 and 3 June, and the panel might need to word that condition accordingly if they were minded to conditionally grant the application. The Police had also proposed conditions and it was understood that the applicant had considered these and that discussions had taken place between the Police and the applicant.

157.6 Mr Savil, Barrister at Law gave the opening presentation on behalf of the Police stating that the Police whilst having no objection to the application in principle their objections in relation to the proposed use over the diamond jubilee weekend remained as set out in their correspondence dated 10 April 2012, stating that they considered it would potentially undermine all four licensing objectives, the prevention of crime and disorder; public safety, the prevention of noise nuisance and the protection of children from harm. The proposed first event for this venue which comprised a large outside area, for up to 4,999 had already been advertised for the weekend of 3 and 4 June was intended for a target audience aged 16-24. Additionally on page two of the supporting documentation it had stated that two marquees would be set up as two bars, which would be operated by Whitehawk FC staff. In addition it was proposed that the club house would have a bar, described as a VIP bar with alcohol being supplied in glass drink receptacles. Sussex Police would have expected an event of this nature to be glass free in order to ensure that the licensing objective of public safety was promoted. The applicants had stated that:

- ticket sales would be limited to persons aged 14 and over ;
- all ticket holders would need to provide ID to exchange for a wrist band to allow access onto the site ;
- people will be reminded that if they supplied alcohol to an audience member with an under 18 wrist band they would be escorted from the premises and have their own wristbands removed.

Sussex Police had a number of concerns in relation to young people and the supply of alcohol and contended that the application as presented did not promote the licensing objectives.

157.7 Mr Savil stated that the clubhouse already had a club premises certificate which had no conditions on the licence. The new licence application included the clubhouse, therefore it was important that if granted that the Committee be invited to impose a condition that when an event took place under the Premises Licence, the Club Premises Certificate was effectively suspended for the duration of the event and that Premises Licence took precedence. It was understood that the applicants were happy meet this condition.

157.8 The proposal to issue wristbands to patrons aged 14 and above coupled with the proposed warning that if alcohol was supplied to an audience member with an under 18 wristband, they would have their wristband removed was totally inadequate. In their experience the Police found that under 18s did attempt to obtain alcohol, and when there was a mixed age range of under 18's at any event, , especially a large scale event for up to 4,999 attendees, over 18s would obtain alcohol for under 18s. Under 18s would also attempt to smuggle alcohol into an event, or attempt to disguise alcohol obtained elsewhere or inside by decanting it into soft drink bottles etc. The Police

would normally expect that any event including persons under the age of 18 is alcohol free.

- 157.9 The Police were also concerned about the proposal that alcohol would be served by members of Whitehawk Football Club. There had been no mention of any staff training or what experience bar staff and bar supervisors would have, coupled with the fact that the bar staff themselves might be under 18 and this either by peer group pressure, inexperience or intimidation, knowingly supply alcohol to under 18s. Sussex Police would expect that experienced and professional bar staff to be employed for all large scale events to ensure the Licensing Objective of the Protection of Children from Harm was promoted. Sussex Police would expect a full event manual to be provided to all Responsible Authorities at least six months in advance for an event of that scale. A longer period would be preferred for a first event, which would detail every aspect of the planned event, including (but not restricted) to security numbers stewarding, command and control facilities and a full traffic management plan. For example a traffic management plan should include details indicating how any disruption to the public and those living in the immediate and neighbouring residential areas would be mitigated against. Measures to prevent noise and other public nuisance should also be included. It was noted that that the representations made by the Health and Safety Team had been withdrawn providing that additional questions were agreed to and it was understood that the applicant had agreed to comply with these.
- 157.10 Mr Savil concluded by stating that whilst the Police were generally supportive of the application and were in agreement that the conditions proposed by the Health and Safety Team should be added to any licence granted however, they were of the view that at least six months notice was necessary for an event where the audience capacity would be more than 500 people. The Police contended that the application was ill conceived for such a large first event and that therefore they had no alternative than to oppose the application in its current format.
- 157.11 Mrs Irving, Licensing and Public Safety Manager concurred in that view stating that she had sought to devise a set of proposed conditions,(with the agreement of the Chair these were circulated to those present), the conditions which the applicant had agreed to meet and those on which agreement had not been reached were highlighted. The conditions proposed were not considered to be unreasonable and were commensurate with those applied as standard to large scale events.
- 157.12 Chief Inspector Betts, Chief Inspector, Operations referred to the fact that a six month lead in period was required in respect of large scale events in order to facilitate the planning process, to enable the police to have all necessary, measures could be put into place and in order for them to be satisfied that the applicants had robust arrangements in place to ensure that all reasonable measures had been taken to ensure that the licensing objectives were met. The Diamond Jubilee weekend would be marked by a number of events across the City and in the absence of sufficient detail from the applicant which gave confidence regarding the proposed event there were grave concerns regarding the ability of the police's ability to respond in the event of any incidents on site.
- 157.13 The Chair, Councillor Sykes and Councillor Rufus sought clarification that the Police's objections related both to the short time frame for resolution of any outstanding matters

and against the backdrop of other events to take place over that weekend. Clarification was also sought that the conditions put forward represented those which the Police would expect to see on a longer term permanent licence. Chief Inspector Betts confirmed that the Police were happy to work with the applicants towards any future event and had no objections to the application in principle but considered that the timeframe was far too short for effective arrangements to be put in place for a major event of the type proposed for the Diamond Jubilee Weekend. Mrs Irving confirmed that the conditions proposed by the Police represented those which they would wish to have applied to a permanent licence.

157.14 Mr Newcombe spoke on behalf of the applicants in support of their application. He stated that despite seeking to make arrangements to meet with the Police, these meetings had not taken place. The Police responded that following cancellation of a meeting by the applicants it had not been possible to hold a further meeting prior to that day's meeting. This was not due to any unwillingness on the part of the Police but due to the fact that Officers had been heavily engaged in other work. The Police were engaged in a number of areas of work at any time and significant work was involved in ensuring that stringent measures were put into place for major events and this was why such a long lead in time was required. Mr Newcombe explained that the applicant had agreed to meet a number of requirements, in fact the majority of requirements requested by the Police, in relation to those which the applicant felt unable to meet, the rationale for that was given. The event being arranged for the Diamond Jubilee weekend was being arranged primarily as a local community event. Those who would be managing the event had extensive experience and an established track record in running similar community based events. The Event Manager appointed had 20 years experience. The applicants would be happy to meet the conditions proposed in relation to the lead in period for any future event. Mr Newcombe also confirmed that the existing Club Premises Certificate would be surrendered on grant of a new premises licence.

157.15 Councillor Rufus enquired why, given that the Police had indicated that the conditions proposed represented a base line level of arrangements that they would expect to see on a licence of this type, the applicants were not prepared to meet all of them. It was noted that the level of arrangements to be put into place differed dependant on the scale and type of event proposed. Mr Newcombe stated that within a very short space of time (3 days), the applicants had worked very hard to meet the requirements put forward by the Police and had addressed all of their major concerns, he was confident that any outstanding issues could be adequately addressed with the exception of the six month lead in period requested which he did not consider to be reasonable in this instance although it could be met in future. Ultimately, the concerns expressed by the Police boiled down to a lack of Police resources which placed the applicants at a disadvantage. The other proper authorities who had been approached had been able to process this application and reach an accommodation with the applicants without a shorter time scale and it should be noted that the requirement for a six month lead in was not required by any of the statutory guidance. There had been no history of incidents of complaints in relation to the manner in which the Club had operated and there was therefore no reason to believe that the arrangements to be put into place in relation to a large scale event or in relation to the future operation of the licence. References to the advanced arrangements in place for the Fat Boy Slim concert at the Amex Stadium were considered to be comparing like with like, as that event would be on a far larger scale and was a different scale of event. If permission was not given for

this community event at such short notice would have significant financial implications for the football club.

- 157.16 The Chair stated that the Panel could not consider financial considerations but were required to consider issues which were germane to ensuring that the four licensing objectives were upheld. The Chair, Councillor Sykes also sought to confirm the date on which the application had been submitted. It was confirmed that the application had been lodged in nearly March and that it had been notified to the Police the same day. The Police had been notified from the outset, subsequently contact had been made with the Council's Events Team.
- 157.17 Councillor Gilbey referred to issues raised by the Fire Brigade enquiring whether these had been addressed. Ms Williams explained that telephone confirmation had been received the previous day that they were generally satisfied with the arrangements proposed. Ms Williams explained that she had been involved in arrangements for very high risk events held in London including Lewisham People's Day. These events had involved working cooperatively and collaboratively with the Police.
- 157.18 The Chair, Councillor Sykes, Councillors Gilbey and Sykes referred to the dispersal arrangements required by the Fire Brigade and Police to ensure dispersal of traffic and pedestrians without detrimental impact to the neighbouring area including both the Caravan park and local residents.
- 157.19 The Panel referred to the concerns expressed by the Police regarding controls regarding the ale and supply of alcohol. It was noted that Police preference was for no alcohol to be served at events where younger people were to be present and that they did not consider that arrangements to control such sales by use of age specific arm bands and the other measures proposed were adequate. Mr Newcombe stated however that the arrangements to be put into place had been used very effectively by the Event Management Team at other events.
- 157.20 There were no more questions on behalf of any of the parties and Mr Whitelegg, Senior Environmental Health Officer therefore gave the closing submission on behalf of the licensing authority. He referred to the options open to the Panel stating that any conditions added to any licence granted needed to be enforceable, proportionate and needed to uphold the four licensing objectives.
- 157.21 Mr Savil gave the closing submission on behalf of the Police and re-iterated the points which had been made by all parties on behalf of the Police, whilst they had no objections to the application per se their concerns with regard to the event proposed for the weekend of 3, 4 and 5 June and the short timeframe for those concerns to be addressed were such that they were unable to support the application in its current form.
- 157.22 Mr Newcombe then gave the closing submission on behalf of the applicant, he referred to the fact that they had agreed to meet the vast majority of conditions proposed by the Police, those who would be organising and running the event which would be community based were very experienced in running similar events. The football club had a good name and events held there had never given rise to problems. He commended the application to the Panel.

157.23 The Chair stated that the Panel had agreed to provide an outline decision that day and that a full decision would be sent in writing within 5 working days as per the Hearing Regulations. The Panel had listened carefully to all representations made and had heard serious concerns from the Police including those of the Chief Inspector of Operations, Paul Betts, that the time allowed to plan for the event from the Police perspective was inadequate in terms of public safety and the prevention of crime and disorder. The Panel shared those concerns and was not satisfied with the assurances given by the applicant in addressing concerns with respect to promotion of all four licensing objectives at the June event. However, the Panel was minded to grant the premises licence on the basis of a set of conditions including that requiring 6 months notice to the Police and Licensing Authority of large events. The Panel's full determination with all conditions to be attached to the new premises licence, would be communicated in writing within 5 working days.

157.24 **RESOLVED:-** That the outline decision of the Panel is as set out in Paragraph 157.23 above.

157.25 Subsequently, the Panel made a full determination of the application. Having carefully considered the conditions proposed by the police and the comments made by the applicants, the Panel considered which conditions they considered were necessary and proportionate having regard to the scale and activities proposed and had sought to avoid duplication where possible. They had therefore granted the licence with conditions they believed were necessary and proportionate to the promotion of the licensing objectives. For the public record the full conditions subsequently agreed by the Panel are set out in full below:

Conditions which should apply to the Premises Licence at all times except where otherwise stated:

1. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV Systems, operated and maintained throughout the premises internally to cover all public areas (not including the public toilets), including the entrance to the premises. The CCTV cameras and recording equipment must be of sufficient quality to work in normal lighting levels inside the premises at all times. 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 required 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. The management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk for the police without difficulty or delay and without charge to Sussex Police. Any breakdown or system failure will be notified to the police immediately and remedied as soon as practicable.

2. External CCTV to be in place for events with over 3,000 people: the CCTV will cover and record all areas where licensable activities are taking place.

3. The Club Premises Certificate shall cease to be effective and shall be surrendered by the licence holder.

4. The licence holder will abide by the Event Safety Guide HSG 195 (commonly known as the Purple guide).

5. Noise pollution will be recognised as a potential problem at all outside events and noise levels will be monitored and adjusted as necessary. Where events include the use of amplified sound and/or plant and machinery a noise management scheme will be submitted and agreed by the Environmental Health and Licensing Team 28 days in advance of the event or in the case of spontaneous or short notice of an event is given to the licence holder. The management plan shall make reference to material contained with the Noise Council publication "Code of practice for environmental noise control at concerts."

6. An Event Management Plan incorporating and including risk assessments shall be submitted for approval by all Responsible Authorities and the Authority for consideration before the event begins. For small events with an audience capacity of under 500, 6 weeks before the event, for medium size events with an audience capacity of over 500 but under 3000, 3 months in advance of the event; and for large events with an audience capacity of 3,000 or more, a minimum of 6 months before the event.

7. An incident log will be maintained by the management showing a detailed note of incidents that occur in the premises. The log book should be kept on the premises and be available for inspection at all times.

8. During an event during which the outside area is used for a licensable activity, the entire premises, internal and external, will be glass free, with polycarbonate, toughened glass or shatterproof drinking receptacles being provided at all times. Glass bottles will be decanted into one of the above drinking receptacles.

9. For events with over 1000 people door supervisors will operate at the premises at a ratio of one per one hundred persons or part thereof, door supervisors will not dual role. At all other times, the premises licence holder will risk assess the need for door supervisors and employ such door supervisors in such numbers and at such times as deemed necessary by the written risk assessment. The written risk assessment will be available on request to the licensing authority and Sussex Police.

10. The "Challenge 25" proof of age scheme will be adopted at every alcohol outlet on site. Any person thought to be under 25 years of age attempting to purchase alcohol will be asked to provide one of the following forms of identification: passport, photo card driving licence or PASS ID card. Appropriate posters will be displayed in all bar areas to prevent persons under the age of 18 from attempting to buy alcohol. All staff will be trained in age-restricted sales, including proxy sales, prior to the admission of the public to the site.

11. Suitable and sufficient signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises.

12. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive the following training in age-restricted sales:

The premises licence holder will ensure that all staff members engaged in selling alcohol on the premises shall receive induction training as to the lawful selling of age restricted products prior to the selling of such products, and verbal reinforcement/refresher training thereafter at intervals of no less than 8 weeks, with the date and time of the verbal reinforcement/refresher training documented. All age restricted sales training records shall be made available to Sussex Police and Brighton & Hove Trading Standards Service upon request.

13. No under 18 discos or events aimed predominantly at under 18s will be held at the premises unless the following conditions are met:

All under events must be formally notified to the Police Licensing Unit at John Street Police Station at least 28 days in advance.

For an exclusively under 18 disco or event, the entire venue for the event will be alcohol free and dedicated to the under 18s event. Having one room or floor set aside for an underage disco, whilst having other rooms or floors open for adults and serving alcohol is not acceptable. All prior marketing (internet, flyers, posters or radio etc) should make it clear what the permitted age of attendees is (both minimum and maximum ages permitted), and that persons under the age of 12 (for example) and 18 or over will not be granted entry. The permissible ages should also be prominently printed on tickets. Any agent or promoter that sells tickets over the phone will be instructed to state on every sale the age range permitted before the ticket(s) are sold.

Additional SIA registered Door Staff to be employed for this event. This should be a ratio of 1 door person to every 50 children. This should include at least one male and one female member of door staff on the front door.

It will be a condition of entry that every person should agree to be searched, this includes their person as well as any bags carried and hand held metal detectors for quick searches for metal objects such as knives.

As a result of the above all aerosols, marker pens, alcohol and any item that could be used as a weapon should be confiscated. It is also recommended that cigarettes be taken off persons of all ages as well as lighters and chewing gum.

In the event that events are held at the premises including under 18s, the premises will close for at least one hour between the event including under 18s and the premises reopening for over 18s.

Storage facilities should be considered for the youths bags and coats so to reduce the chance of theft.

Additional conditions for events of over 1000 attendees

i. The DPS will be on the premises for the duration of the event.

ii. In addition to the DPS there shall be one personal licence holder per 1,000 persons or part thereof.

iii. Tickets will be printed professionally and shall incorporate adequate means to verify authenticity.

- iv. Planning meetings will be held monthly in the six months preceding each event in the case of events for over 3000 attendees.
- v. Facilities to be provided for attendees to deposit glass items on entry to the main event area. Provision must be made at all entrances.
- vi. The sale of liquid refreshments, including alcohol, will only be made in polycarbonate containers, plastic bottles, plastic or waxed paper cups.
- vi. Searches to be carried out by SIA registered personnel at a minimum ratio of 1 in 10.
- viii. Security personnel will confiscate any alcohol from any person who appears to be under 18 years of age who is unable prove their age.
- ix. The licence holder shall provide adequate free supplies of potable water for the duration of the event.
- x. There will be at least 1 bar manager per bar. All bar managers will be Personal Licence Holders. The licensee will provide the police with a full list of names, personal licence details and contact telephone numbers at least one week prior to the event.
- xi. All managers will receive a pre-event training manual by no later than 1 week before the event commences. This will include specific information about the event as well as management procedures and policies concerning the four licensing objectives, with particular reference to underage drinking, (Challenge 25) and dealing with drunk/drugged individuals. The staff manual will also provide detailed procedures to be taken in relation to vulnerable people and children, particularly lost children, particularly lost children or those whose parents are under the influence of alcohol or drugs.
- xii. The licence holder will provide clearly marked secure drugs amnesty bins which will be placed in a conspicuous position prior to all entry points to the festival site. Such bins are to be emptied only via a procedure agreed with Sussex Police. Notices indicating that those found with any illicit drug will be refused entry to the site and their ticket confiscated will on be on display adjacent to the drugs amnesty bins.
- xiii. Persons found to be in possession of any illicit drug prior to entry to the site will be reported to the police, refused entry to the site and have their ticket and any other documentation used to gain entry to the site confiscated.
- xiv. A Child Protection Policy shall be fully implemented at all times during the event and not altered without the written agreement of the Local Authority Child Protection Team.
- xv. A "Lost Children's Point" will be operational during the times the event is open to the public and staffed by CRB checked staff, approved by the Local Authority Child Protection Team.

Note: The Legal Adviser to the Panel advised the applicants of their appeal rights under Section 181 of the Licensing Act 2003.

The meeting concluded at 2.45pm

Signed

Chairman

Dated this

day of