

BRIGHTON & HOVE CITY COUNCIL

**LICENSING PANEL
(Licensing Act 2003 Functions)**

2.00pm – 5 SEPTEMBER 2005

**COUNCIL CHAMBER
HOVE TOWN HALL**

MINUTES

Present: Councillors Pennington (Chair), Cobb and Older.

PART ONE

ACTION

118. TO APPOINT A CHAIR FOR THE MEETING

118.1 Councillor Pennington was appointed as Chair.

119. PROCEDURAL BUSINESS

119A Declarations of Substitutes

119.1 There were no substitute Members.

119B Declarations of Interest

119.2 There were none.

119C Exclusion of Press and Public

119.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Section 100A(3) or 100 1 of the Local Government Act 1972.

119.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of any items.

**120. APPLICATION FOR A VARIATION UNDER TRANSITIONAL
ARRANGEMENTS OF THE LICENSING ACT 2003 – THE CONQUEROR, 16
LOWER MARKET STREET, BRIGHTON**

120.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation under transitional arrangements of the Licensing Act 2003 at The Conqueror, 16 Lower Market Street, Brighton (see minute book).

120.2 The applicants Mr Oshaughnessy and Mr Binfield attended the Panel. Mr & Mrs Gamper, Mr & Mrs Tomlinson, Mr Cowell attended the Panel as residential objectors.

120.3 The Licensing Manager summarised the application as set out in report. There had been twenty three representations from local residents. No representations had been received from the Police or Fire and Rescue Service. The Environmental Health Pollution Team had received a number of complaints. As a result, the applicants had amended the application and offered a number of conditions, which the Pollution Team believed would resolve the problems. It was confirmed that the application requested 30 minutes wind up period after the sale of alcohol.

120.4 Mr Oshaughnessy set out the additional conditions he had offered in an email to the licensing officer dated 4 September.

120.5 Mrs Gamper set out her objections to the application. She considered that the pub did not operate within the conditions of the current licence. She gave details of recent incidents of noise and disturbance in the last few weeks. On a number of occasions she had witnessed patrons congregating outside the pub, sometimes drinking after pub hours. Mrs Gamper considered that the numbers of drinkers congregating outside the pub was intimidating for residents. She believed that names and addresses of objectors had been given to the pub customers. Mrs Gamper expressed concern about the obstruction of the pavement by drinkers forcing pedestrians to walk in the road.

120.6 Mr Cowell informed the Panel that he found it difficult to cope with the noise and disturbance caused by the pub with the current licensing hours. He also stressed that it was sometimes difficult to contact the Environmental Health Pollution Team to report noise problems.

120.7 Mrs Tomlinson complained that noise from the pub echoed down the street. Her young grandchildren were able to hear shouting, swearing and arguments. She stressed that her grandchildren needed sleep.

120.8 Mr Gamper quoted the council's licensing policy 4.2. He

stressed that the pub was constructed a long time ago and it was impossible for the applicants to control noise. Mr Gamper quoted 4.5 of the policy and stressed that there were a number of pubs in the area asking for similar hours. Policy 4.8 referred to the city centre. Mr Gamper stressed that Lower Market Street was a residential area. Mr Gamper believed that very strict restrictions should be implemented if the licence was extended.

120.9 Mr Gamper requested that a further letter from Mr Wayne Schofield be circulated to the Panel for consideration. The Panel Solicitor confirmed that this late letter could only be circulated with the agreement of the applicants. Mr Oshaughnessy did not agree to the letter being circulated.

120.10 Mr Gamper raised a question about the Data Protection Act in relation to names and addresses of the objectors being submitted to the applicants without their permission. The Panel Solicitor explained that the Licensing Act 2003 required that all representations be sent to the applicants. The general idea was to encourage negotiation between the applicant and the objector, and avoid the need to hold panels.

120.11 Mr Oshaughnessy informed that Panel the pub owners were a responsible company who tried to respect their neighbours. There was no aggressive drinks promotion and the pub encouraged responsible drinking. The pub had made efforts to act on the resident's concerns. Mr Oshaughnessy had requested a meeting with the Environmental Health Pollution Team and had put forward proposals to vary the application. The pub had written to every objector inviting them to a meeting to discuss the application. Mr Oshaughnessy had not disclosed the names of objectors to customers. In addition to the conditions set out in his email of 4 August, Mr Oshaughnessy withdrew the application for additional hours on Christmas Eve, if it fell on a Friday or Saturday.

120.12 **RESOLVED** - That the application for a variation for the premises licence already granted under "grandfather rights" be granted with the following amendments.

The hours for sale of alcohol to be Sunday to Thursday 10.00-23.30. Friday and Saturday 10.00 – 00.30, with 30 minutes after permitted hours.

The further additional hour to be withdrawn on Christmas Eve when falling on a Friday or Saturday. Recorded music to cease at 23.30 hours - Sunday to Thursday, and 00.30 hours – Friday and Saturday.

The following conditions to be attached to the licence

- (1) A noise limiter to be installed at a level to be determined by the local authority.
- (2) No live music.
- (3) All windows and doors to be closed at 21.30 hours, seven days a week, other than for access and egress.
- (4) There will be no entry after midnight on Friday and Saturday.
- (5) The outside seating area to be closed at 23.00 hours , 7 days a week.
- (6) The outside bottle storage bin not to be used between 20.30 hours and 11.00 hours, 7 days a week.
- (7) The cellar chiller unit to operate only between 10.00 hours to 23.00 hours, 7 days a week. This will be controlled by a timer clock.
- (8) Customers to be prevented from taking alcohol in open containers onto the street.
- (9) The Licensee must ensure that people on or leaving the premises conduct themselves in an orderly manner at all times and do not in any way cause annoyance to residents and people passing by the premises.

Reasons for granting licence with conditions: It was considered that the above change to the hours and the conditions attached to the licence would reduce the potential for public nuisance.

The Panel solicitor reminded the parties of their appeal rights to the Magistrates Court under the Licensing Act and that appeals must be made within 21 days of written notification of the decision given at the hearing.

121. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – THE CORNERSTONE, 2-6 ELM GROVE, BRIGHTON

121.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation under transitional arrangements of the Licensing Act 2003 at The Cornerstone, 2-6 Elm Grove, Brighton (see minute book).

121.2 The applicants, Mr Oshaughnessy and Mr Binfield attended the Panel. Mr Kilpatrick attended the Panel as a residential objector.

121.3 The Licensing Manager summarised the application as set out in report. There had been one representation to the application. No representations had been received from the Police or Fire and Rescue Service. One complaint about noise from people using the beer garden was received on 7 July 2005. The pollution team had written to the complainant, who had not replied. No further action was taken. Prior to that occasion, one complaint had been received in 2000.

121.4 Mr Kilpatrick gave details of problems experienced over the years he had resided in his property. He stressed that noise from the pub penetrated the party walls and kept him awake. On one occasion, Environmental Health officers had measured noise levels in his bedroom and issued a noise abatement order. The licensee had left shortly afterwards. There had been a succession of licensees over the years.

121.5 Mr Kilpatrick experienced difficulty to contacting the pub licensees. A few days before the Panel, his sons had been kept awake by loud techno music whilst sleeping in the upstairs rooms. This occurred after pub closing hours. During that evening, Mr Kilpatrick had been disturbed by noise from the DJ's stage, which was placed against the party wall. Music in the garden had carried on till 11.30 p.m. Doors and windows were kept open all evening.

121.6 Mr Kilpatrick considered that the staff in the pub were unable to regulate sound levels. He believed that the pub should not be given extended hours until they had demonstrated they could manage the establishment within existing licensing regulations. Mr Kilpatrick suggested that Environmental Health officers should investigate the problem and suggest soundproofing of the pub's side of the property.

121.7 Mr Kilpatrick could often hear the TV from the upstairs living room of the pub. He reported that staff often stayed above the pub and continued to play music after closing hours.

121.8 Mr Oshaughnessy informed the Panel that the pub owners were a responsible company who tried to respect their neighbours. Mr Oshaughnessy offered the following conditions to be attached to the licence. The garden to be closed at 11.00 p.m. Doors and windows to be closed at 11.00 p.m. No live music after 11.00 p.m, except for New Years Eve. No amplified voice or DJ'S after 11.00 p.m. Notices to be displayed asking the patrons to respect neighbours, and not make noise when leaving. This would include a reference to the antisocial use of mobile phones. No karaoke. The licensee to soundproof the party wall between the pub and Mr Kilpatrick's house.

121.9 Mr Oshaughnessy explained that he had not intended to soundproof the wall upstairs. He would speak to staff and ask them to respect the fact that it was a party wall. He would also suggest moving the living room to another part of the property.

121.10 In his closing summary Mr Kilpatrick made reference to noise from the collection of glass bottles between 4.10 and 5.10 a.m. Mr Oshaughnessy established that a firm collected recycled glass. The time of collection was not within his control. Meanwhile, Mr Oshaughnessy was happy to extend the soundproofing upstairs if problems persisted.

121.11 **RESOLVED** - That the application for a variation for the premises licence already granted under "grandfather rights" be granted with the following amendments.

The hours for Recorded Music to be Sunday to Thursday 10.00-00.00. Friday and Saturday 10.00 – 01.00.

The following conditions to be attached to the licence

- (1) The garden to be cleared of people and closed by 23.00 hours.
- (2) Doors and windows to be closed at 23.00 hours, save for access and egress.
- (3) No live music after 23.00 hours with the exception of New Years Eve.
- (4) No amplified voice, including DJs after 23.00 hours.
- (5) No karaoke.
- (6) The applicant to sound proof party walls between the pub and No. 1 Islingword Road. This work to be carried out as soon as practicable.
- (7) The licensee shall ensure that prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly. Customers to be reminded about the anti-social use of mobile phones.

Reasons for granting licence amendments and conditions: It was considered that the above change to the hours and the conditions attached to the licence would reduce the potential for public nuisance.

The Chair suggested that Mr Kilpatrick contact Environmental Health officers concerning the noise caused by glass being removed early in the morning.

The Panel solicitor reminded the parties of their appeal rights to the Magistrates Court under the Licensing Act and that appeals must be made within 21 days of written notification of the decision given at the hearing.

The meeting concluded at 5.15 p.m.

Signed

Chair

Dated this

day of

2005