

BRIGHTON & HOVE CITY COUNCIL

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

9.30AM – 19 SEPTEMBER 2005

BRIGHTON TOWN HALL

MINUTES

Present: Councillors Lepper, Simson and Williams

PART ONE

182. ELECTION OF CHAIR

182.1 **RESOLVED** – That Councillor Lepper be elected Chair for this meeting.

183. PROCEDURAL BUSINESS

183A. Declarations of Substitutes

183.1 Councillor Lepper substituted for Councillor Cobb .

183B. Declarations of Interest

183.2 There were no declarations of interest.

183C. Exclusion of Press and Public

183.3 The Panel 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.

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

184. MINUTES

184.1 **RESOLVED** – That the minutes of the meeting held on 19 August 2005 be approved and signed by the Chair as a correct record of the proceedings.

185. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – THE PLOUGH INN

185.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a Premises Licence already granted under “grandfather rights” at The Plough Inn, Vicarage Lane, Rottingdean (see Minute Book).

185.2 Mr Avery and Ms McCabe, licensees of The Plough Inn, attended the Panel with their representative, Mr Linderson. Mr Hampton attended the Panel in his capacity as the Chair of Rottingdean Parish Council.

185.3 The Legal Advisor to the Panel explained however that it appeared that all of the representations received had been lodged after the expiry of the statutory notice period and that they were therefore not in accordance with the extant legislation. The Panel were therefore required to consider whether or not these were valid.

185.4 In response to questions the Assistant Director, Public Safety explained that some objections had been received prior to expiry of the statutory period, but had been ruled invalid either because the objectors lived too far distant from the premises or the nature of the objections was not relevant under the auspices of the Licensing Act.

185.5 The Legal Advisor to the Panel stated that although the necessary advertisements had been properly placed in the local press that there had been some confusion regarding the correct expiry date for objections, although it should be noted that all of the representations placed before the panel had been received outside the statutory time frame (as seen from the date stamps appearing on the submitted letters). Several of the objectors' letters had indicated that they were aware that their representations had been submitted out of time but had stated that the notice required to be displayed in accordance with the Licensing Act had not been displayed in an appropriately prominent location.

185.6 The Panel gave consideration to whether or not the advertisement had been validly advertised. Although Mr Linderson could not confirm the dates of the notices, he was able to present photographic evidence regarding how the advertisement had been displayed. The Panel were of the view that the advertisement had been suitably displayed and had been clearly visible.

185.7 **RESOLVED** – That the objections lodged and brought before the Panel were inadmissible and could not be considered as they had all been received after expiry of the statutory consultation period. The application would therefore be determined by Officers under their delegated powers.

186. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – FMT CLUB, FRANKLIN ROAD, PORTSLADE

186.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a Premises Licence already granted under “grandfather rights” at the FMT Sports and Social Club, 26 Franklin Road, Portslade (see Minute Book).

186.2 Mr Trott a Trustee of the Club, Mr Hodson, the Manager and Mr Smith, the Club Secretary were present on behalf of the applicants. Mr Howson was present on behalf of residential objectors.

186.3 The Licensing Manager summarised the application as set out in the report. No representations had been received from the responsible authorities. Environmental Health records showed that four complaints had been received relating to music and noise from the club since 2003. Two of those had been substantiated and action taken to resolve the problem.

186.4 In answer to questions of the Licensing Manager Mr Hodson confirmed that it was intended to use extended hours for parties and occasional events and over the Christmas/New Year period. It was intended to give 5 working days notice of special events to the licensing authority.

186.5 Mr Hodson referred to problems of noise penetration which had been experienced in the past due to doors being left open or propped open at the premises and to noise penetration which was experienced as a result. Noise was also experienced as a result of patrons using mobile phones outside and using phones and talking to one another whilst they were waiting for taxis. These problems were exacerbated by the fact that the club was not located in an area where there was easy access to public transport. As the Club was run by an executive committee it was not always easy to know whom to contact regarding any problems experienced, although he had on occasion visited the premises in person and spoken to the Manager directly. When any noise nuisance had occurred in the past the situation had generally improved but had subsequently deteriorated.

186.6 Mr Trott stated that the Club was anxious to be proactive and to take measures in order to ameliorate any potential nuisance to

neighbouring residents. Noise readings had been taken in the past at the front of the premises and had not indicated that excessive noise was being generated. Mr Hodson stated that the doors of the Club were left open for the benefit of guests arriving for an event but were closed by around 8.00pm once guests had arrived and playing of music live or recorded had commenced.

186.7 The Panel noted and agreed that generally noise travelled along the line of sight and that as a result was not necessarily at its loudest at ground floor level. Mr Hodson agreed to liaise with Mr Howson and to take readings from room(s) located on the front upper floors of his property should any further noise nuisance be experienced.

186.8 **RESOLVED** – That the application for a variation for the premises licence already granted under “grandfather rights” be granted as set out in the report and with the following conditions being attached to the licence:

- (1) Except for the purposes of access/egress all doors/windows should be shut and should remain so after 20.30hours when either live or amplified music was being played;
- (2) The Licensee shall ensure that noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties the use of noise limiting devices to be considered if persistent problems arise;
- (3) 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;
- (4) The Licensee shall ensure that the placing of refuse - such as bottles - into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties. No such activity to take place between 23.00 hours and 07.00 hours;
- (5) 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.

The Panel also recommended that the Licensee ensure that a dedicated named liaison officer was available to act as a contact point for local residents. (It was agreed that it would be appropriate for Mr. Hodson to act in this role.)

Reasons for imposing conditions : It was considered that the conditions attached were reasonable and sought to address the concerns raised by the residential objector.

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.

187. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – PRESTON PARK TAVERN

187.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a Premises Licence already granted under “grandfather rights” at the Preston Park Tavern, 88 Havelock Road, Brighton (see Minute Book).

187.2 The applicant did not attend the Panel. Mr Smith was present on behalf of residential objectors.

187.3 The Licensing Manager summarised the application as set out in the report. A number of representations had been received from local residents expressing concern regarding the manner in which the establishment was currently run and expressing concern about the anticipated negative impact of extended opening hours, noise levels, crime and disorder and prevention of public nuisance. Comments from the Pollution Team confirmed that a series of complaints had been received relating to the premises although a nuisance had not been identified. Use of the outdoor seating area had also given rise to complaints and the Panel might therefore wish to apply a condition setting the hour at which the outside seating areas should be cleared and closed.

187.4 Mr Smith spoke on behalf of residential objectors and referred to the content of the letters of complaint which had been received. He stated that there had been many incidents of disorder, noise and rowdiness following the arrival of the current licensee some three years previously. The pub had gradually become re-branded as a “Football” pub and whilst attracting individuals known to the licensee was now used very little by any local residents. A number of special events had been held at the premises of which had disrupted residents amenity and about which they had not received any prior notification. There had been serious violent occurrences to at which the Police had arrived after the event and had had to rely upon witness testimony. In the past residents who had sought to raise issues of concern with the licensee did not feel that these had been sympathetically received. Latterly there did appear to have been fewer incidents but residents considered that might be attributable to

the fact that licence application was pending and that the football season had yet to commence in earnest.

187.5 **RESOLVED** – That the application for a variation for the premises licence be refused.

Reasons for refusing variation: The Panel was not satisfied that the steps put forward by the applicant in the operating schedule to address the licensing objectives were sufficient to deal with the current disorder problems at the premises. Further Members were not satisfied that the problems could be regulated by the imposition of conditions.

The Panel Solicitor advised the Panel that the applicant would have a right of appeal 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 12.45 pm

Signed

Chair

Dated this

day of

2005