

BRIGHTON & HOVE CITY COUNCIL
LICENSING PANEL
2003 (Licensing Act 2003 Functions)

2.00PM – 28 SEPTEMBER 2005

BRIGHTON TOWN HALL

MINUTES

Present: Councillors Simson (Chair), Pennington and Pidgeon.

Also in attendance: Rebecca Sidell, Panel Solicitor, Colin Giddings, Licensing Officer and Caroline De Marco, Committee Administrator.

PART ONE

267. ELECTION OF CHAIR

267.1 **RESOLVED** – That Councillor Simson be elected Chair for this meeting.

268. PROCEDURAL BUSINESS

268A. Declarations of Substitutes

268.1 There were no declarations of substitutes.

268B. Declarations of Interest

268.2 There were no declarations of interest.

268C. Exclusion of Press and Public

268.3 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.

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

269. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – R-BAR (BRIGHTON LTD)

269.1 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 R-Bar (Brighton Ltd), 5-7 Marine Parade, Brighton (see Minute Book).

269.2 The applicants and their representative attended the panel. Mr Foley, Mr Southern, Mr Chainey and Ms Hughes attended as residential objectors.

269.3 The Licensing Manager summarised the application as set out in report. Many representations had been received from residents. No representations had been received from the responsible authorities. There was some relevant history of noise nuisance.

269.4 The Panel Solicitor confirmed that she was not aware of any planning issue in relation to this application. Planning and licensing were two separate regimes and planning issues need not concern the Panel.

269.5 Mr Foley provided a floor plan of the Albemarle, a block of 36 flats on the 2nd to 7th floor above the ground mezzanine and first floor premises used by the R-Bar. He explained the structure of the building in some detail. The block had a concrete frame where concrete columns in the R Bar were also the same columns in all the flats. The columns picked up vibration and transmitted them throughout the building. Residents did suffer noise disturbance from surrounding properties. This was dealt with by double glazing and closing the windows. However, Mr Foley stressed that it was unacceptable to suffer noise nuisance from within the building itself.

269.6 Mr Southern confirmed that he could hear noise from the R-Bar in his flat. The noise came from the ducting in his bathroom. Mr Southern lived on the 3rd floor.

269.7 Mr Chainey explained that he had lived on the 7th floor for 14 years. There had always been problems of noise from the ground floor transmitting through the building. Mr Chainey gave details of a number of recent occasions when he suffered a buzzing noise in his flat, caused by music vibration. Mr Chainey considered that 24 hour opening would be intolerable for residents.

269.8 The applicant's solicitor informed the Panel that the premises opened as the R-Bar in March 2005. It was a 2 floor gay venue and operated in conjunction with the Club Revenge. 24 hour opening was requested to enable people who had been to the Club Revenge to chill out in the R Bar. The patrons of the R-Bar were a section of the community who were not known for causing trouble, noise or disturbance. Due to a number of homophobic attacks in the area, they left the premises quietly and quickly, usually by taxi.

269.9 The Panel was informed that the premises operated with door staff. The applicants were concerned to hear that there was noise within the building. The sound system in the building had been professionally installed and there was a limiter. They would be prepared to work further with a professional sound consultant.

269.10 The applicants did not envisage the premises would operate as a night club. They were not proposing live music on a regular basis. There would be mainly recorded music. With regard to the columns, the applicants would move any speakers that were mounted on columns. Meanwhile, windows would be closed at 10.00 pm and everything reasonable would be done to avoid causing a noise nuisance.

269.11 **RESOLVED** - That the application for a variation for the premises licence already granted under "grandfather rights" be granted.

The following conditions to be attached to the licence.

(1) A scheme to eliminate noise and vibration nuisance to the residential units in the building to be submitted to the Licensing Authority. The variation to the premises licence shall not commence until the scheme and all associated works have been approved and carried out to the satisfaction of the Licensing Authority.

(2) That all live and amplified music cease at 00.00 hours save for background recorded music.

(3) Windows of the upper part of the premises to be closed by 22.00 hours.

Reasons for granting the licence and attaching conditions: It was considered that the conditions attached were necessary having regard to the concerns expressed about 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.

270. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – “14 SHIP STREET”

270.1 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 “14 Ship Street”, 14 Ship Street, Brighton (see Minute Book).

270.2 The applicants Mr Baker and Ms Shar attended the Panel with their representative Mr Simmonds. Mrs Lindsay-Hills, Mr Farley, Mr Swain and Mr Gregson attended the Panel as residential objectors.

270.3 The Licensing Manager summarised the application as set out in report. Representations had been received from residents and a residents association. No representations had been received from the responsible authorities. There was some relevant history of noise complaints.

270.4 Mr Farley informed the Panel that he lived in the adjoining property at 1 Ship Street Gardens. He stressed that unauthorised works had been carried out at the venue before Mr Baker and Ms Shar became the licensees. Since then soundproofing works had been carried out as the noise nuisance to his property had become intolerable. He was not aware that these works had been inspected or approved by the local authority. The works had not been entirely successful and he still suffered some noise nuisance.

270.5 Mr Farley expressed concern about the noise caused by private parties at the venue after licensing hours.

270.6 Mrs Lindsay-Hills informed the Panel that she had owned an adjoining property, 14 a Ship Street for over 30 years. Until recently there were no noise problems from 14 Ship Street, which had previously been a restaurant. The previous and present owners had turned the premises into a bar. Mrs Lindsay-Hills stressed that the applicants were in contravention of their licence as they no longer served food and had turned the kitchen into an extension of the bar. There was standing room only.

270.7 Mrs Lindsay-Hills reported that her previous tenants had left due to the intolerable noise caused by 14 Ship Street.

270.8 Mr Swain reported that noise problems were caused from the back of the bar and the glass extension roof. There was no air conditioning and in summer there was an open window. The noise amplified around Ship Street Gardens.

270.9 Mr Gregson stressed that most of the premises backed on to the houses in Ship Street Gardens. The noise emitted from the glass roof and echoed round Ship Street Gardens.

270.10 The applicant's representative Mr Simmonds informed the Panel that the current licensees had refurbished the premises and ran it as a café bar. Substantial food was now available. The applicants had made efforts to reduce perceived problems. Soundproofing had been carried out but had not been fully approved. Mr Simmonds stressed that the references to planning matters were not relevant to the application. Meanwhile, it was not illegal for the applicants to invite guests to the premises after licensing hours.

270.11 Mr Simmonds informed the Panel that the glass roof was triple glazed. With regard to the windows at the front, the applicants were considering air conditioning but would possibly require planning permission. Meanwhile, the windows would be closed at 11.00 pm and there would be no admittance after midnight. There was seating in the premises. There were bar stools and settees.

270.12 With regard to soundproofing, the applicants would eliminate noise to Mr Farley's property if there were still a problem.

270.13 **RESOLVED** – That the application for a variation for the premises licence already granted under “grandfather rights” be granted.

The following conditions to be attached to the licence.

(1) All soundproofing works to be tested and approved by the Licensing Authority in conjunction with Environmental Health, and any further measures identified to be undertaken before the variation takes effect.

(2) Amplified music or other entertainment noise from within the premises shall not be audible at any residential premises between the hours of 23.00 hours till 10.00 hours.

(3) All windows to be closed by 23.00 hours.

(4) There to be no entry to the public after 00.00 hours.

(5) Recorded music to be kept to a background level after 23.00 hours.

Reasons for granting the licence and attaching conditions: It was considered that the conditions attached were reasonable, and would adequately deal with the concerns expressed about 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.

Councillor Pennington declared a non prejudicial interest in this item as he was a member of the Planning Applications Sub-Committee, and had considered a planning application for 14 Ship Street.

271. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – PRINCE GEORGE PUBLIC HOUSE

271.1 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 Prince George Public House, 5 Trafalgar Street, Brighton (see Minute Book).

271.2 The applicants attended the panel. Ms Fuller attended as a residential objector. Mr Scoble attended to represent Miss Villermet of the North Laine Community Association.

271.3 The Licensing Manager summarised the application as set out in report. Representations had been received from local residents and a community association. No representations had been received from the Responsible Authorities.

271.4 Ms Fuller informed the Panel that the pub was adjacent to Pelham Square. The beer garden at the rear abutted several properties. The residents liked the pub and some used it on a regular basis. However they made the following points. The beer garden caused considerable noise to the houses that backed on to it. There was concern at the inclusion of live music and sporting events in the application. Large crowds of people tended to congregate on the pavement outside the pub. Ms Fuller was pleased to report that following a meeting with the applicants they were able to make a number of concessions that met their

concerns.

271.5 The applicant informed the Panel that The George was a vegetarian pub, which had been short listed by the Vegetarian Society as having the best vegetarian food this year. Following a very co-operative meeting with Ms Fuller, Mr Scoble and Mrs Hossain, the applicant was happy to amend the application to meet the residents concerns (as outlined below).

271.6 **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 the sale of alcohol to be amended to allow the premises to open until 02.00 on up to 12 times per year, upon 14 days notice being given to the Police, Environmental Health, and the Friends of Pelham Square. Environmental Health to have the power to veto the event if necessary. The request for Indoor Sporting Events, Live Music, Performance of Dance, Provision of facilities for making music to be deleted from the application.

The following conditions to be attached to the licence.

(1) The garden to be cleared at 23.00 hours on Friday, Saturday and Sunday, and 22.00 hours on Monday to Thursday.

(2) Notices at all exits to state that there should be no glass or bottles to be taken outside of the pub. Notices will also request that patrons should leave the area quietly.

Reasons for amending hours and attaching conditions: It was considered that the amendment to the hours and conditions attached were reasonable having regard to the concerns expressed about 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.

272. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – SUMO

272.1 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 SUMO, 9-12 Middle Street, Brighton (see Minute Book).

272.2 The applicant attended the Panel. Mr Swire attended as a residential objector.

272.3 The Licensing Manager summarised the application as set out in report. Representations had been received from a local resident. No representations had been received from the Responsible Authorities.

272.4 Mr Swire informed the Panel that the premises was situated in a residential area. Sumo was also close to a synagogue and a primary school. There was some history of noise nuisance from the premises. The premises had a front door with single glazing. Noise escaped into the street as people entered and left the venue. Noise also escaped through a side window. Mr Swire considered that 24 hour opening was unreasonable.

272.5 The applicant informed that Panel that C-side Ltd was an established group and the venue was under new management. The downstairs bar was the noisier of the two bars and was situated in a solid basement. The applicant was happy for the venue to have no off sales and to close all doors and windows.

272.6 **RESOLVED** – That the application for a variation for the premises licence already granted under “grandfather rights” be granted.

The following conditions to be attached to the licence.

- (1) No off sales of alcohol.
- (2) All doors and windows to be closed by 23.00 hours, save for access and egress.
- (3) The Licensee shall ensure that noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties.

Reasons for amending hours and attaching conditions: It was considered that the conditions attached were reasonable having regard to the concerns expressed about 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.

The meeting concluded at 6.55 p.m.

Signed

Chair

Dated this

day of

2005