

BRIGHTON & HOVE CITY COUNCIL

LICENSING PANEL (Licensing Act 2003 Functions)

2PM – 4 JULY 2006

**COMMITTEE ROOM 3
BRIGHTON TOWN HALL**

MINUTES

Present: Councillors Lepper (Chair), Cobb and Simson

Also in attendance: Tim Nichols, Head of Environmental Health and Licensing, Rebecca Sidell, Panel Solicitor and Caroline De Marco, Committee Administrator.

PART ONE

12. ELECTION OF CHAIR

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

13. PROCEDURAL BUSINESS

13A Declarations of Substitutes

- 13.1 There were no declarations of substitutes.

13B Declarations of Interest

- 13.2 There were none.

13C Exclusion of Press and Public

- 13.3 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.

- 13.4 **RESOLVED** - That the press and public not be excluded from the

meeting during consideration of any items.

14. APPLICATION FOR A VARIATION OF A PREMISES LICENCE ISSUED UNDER THE LICENSING ACT 2003 – THE CHURCH, 11, DYKE ROAD, BRIGHTON

- 14.1 The Panel considered the report of the Assistant Director, Public Safety, regarding an application for a variation to a premises licence under the Licensing Act 2003 for The Church, 11, Dyke Road, Brighton (for copy see minute book).
- 14.2 The applicant attended the Panel with his representative Mr Simmonds. Councillor Taylor attended the Committee to speak on behalf of Mr Fisher and Ms Brooke (residential objectors). Mr Louis and Mr Ginesi attended as residential objectors.
- 14.3 The Licensing Manager summarised the application as set out in the report. Representations had been received from local residents on the grounds of prevention of public nuisance. Residents had complained of noise and anti social behaviour. There was a history of noise complaints since the late 1990's. A recent complaint was currently under investigation, but this had not established a noise nuisance. Sussex Police had now withdrawn their representation.
- 14.4 The Panel was informed that the current premises licence had a club membership attached to it. The applicant wanted this restriction removed from the licence. The Licensing Manager explained that there were many controls that could help to control noise emanating from venues. However, it was difficult to make venues responsible for people who had left the building. The only condition, which might help, was limiting the time of operating the premises.
- 14.5 Councillor Taylor informed the Panel that he was attending the panel as ward councillor to represent Mr Fisher who lived opposite the club. The building used by The Church had not been designed as a night club and the thumping of bass notes was audible inside the houses of Wykeham Terrace, when windows were closed. Mr Fisher had complained to the noise pollution team. The application to extend the hours from mainly 02.00 hours to 05.00 hours, seven days a week, would extend the noise nuisance and would make a good nights sleep difficult to achieve.

- 14.6 Councillor Taylor explained that it was difficult for residents to contact the club to ask them to turn the music down. Mr Fisher had tried unsuccessfully to phone on three occasions. The letters of objection expressed concern about the unruly behaviour of clients leaving the club. The police had been called on a number of occasions. It was not uncommon for the gardens of nos 1-6 Wykeham Terrace and St Nicholas Churchyard to be used as a toilet.
- 14.7 Councillor Taylor stressed that the area was generally quiet apart from the club. The removal of the membership requirement would increase the client base. He asked the Panel to reject the application. However, if the Panel was minded to grant the application, he suggested that they refuse the application for Sunday and limit the extra hours to Friday and Saturday nights.
- 14.8 Mr Ginesi informed the Panel that although the area was busy during the day time, it was very much a residential area after 23.00 hours. Customers who left the club added to the general nuisance. The gardens and the church yard were used as a public lavatory. He hoped that the Panel would take the concerns of residents into consideration.
- 14.9 Mr Fisher reported that the emptying of bottles into containers occurred between 02.30 and 03.00 hours. Mr Ginesi reported that he had heard bottles being collected at 06.00 hours.
- 14.10 Mr Simmonds informed the Panel that the club had been there for a long time. There had been problems in the late 1990's and there was a current noise complaint under investigation. Mr Simmonds explained that the previous Wednesday, a noise limiter was checked and set at a level that was satisfactory to the Environmental Health Officer. Further noise insulation works had been carried out to a section of wall that may have caused a problem. Meanwhile, all the windows of the venue were sealed and insulated. The main door was lined and other external doors were fire exits. All internal doors had self closers.
- 14.11 Mr Simmonds explained that the applicant was bringing the licence up to date and wanted the removal of the membership condition. The application for additional hours would give the applicant greater freedom to choose when to open late and would allow people to leave over a longer period. The applicant applied strict controls in the club. The majority of people who visited the club, travelled down the road after leaving, rather than moving towards the residential area. The applicant could not be blamed for the behaviour of people

who were not his clients.

14.12 Mr Simmonds reported that the applicant used some plastic and some glass bottles. These were not put out at night. However, there was a problem with people who dumped bottles in the applicant's container.

14.13 The Panel was informed that residents could contact the premises by using a published mobile number.

14.14 **RESOLVED** – (1) That the application for a variation allowing the removal of embedded restrictions be granted.

(2) That the application to vary the hours for all licensable activities and opening hours be granted for Fridays and Saturdays only. The opening hours and hours of licensable activities for all other days to remain unchanged.

(3) That the following conditions be applied whenever the premises are operating:

(a) There shall be no admittance after 02.00 hours.

(b) The licensee shall ensure that the placing of refuse – such as bottles – into receptacles outside the premises only takes place between the hours of 08.00 hours and 23.00 hours to minimise the disturbance to nearby properties.

(c) The amplified sound equipment shall be governed by a sound limiting device set at a level approved by the licensing authority.

(d) 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.

(e) The Licensee must ensure that excessive noise does not come from the premises, such as to cause people in the neighbourhood to be unreasonably disturbed.

(f) There shall be a minimum of two registered door supervisors on duty after 22.00 hours to close, one of whom should be on the main entrance at all times.

The variation with the above conditions attached shall take effect from the date of the written notification.

Reasons for attaching conditions: It was considered that the above conditions were necessary as the Panel had heard evidence of public nuisance and noise emanating from the venue, especially when people are leaving the premises.

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.

**15 REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003
– THE NEW BUSH, ARUNDEL ROAD, BRIGHTON**

- 15.1 The Panel considered the report of the Assistant Director, Public Safety, regarding a review of a premises licence under the Licensing Act 2003 for The New Bush, Arundel Road, Brighton (for copy see minute book).
- 15.2 The owners of the New Bush attended the Panel with the regional manager Mr Thomas. Mr Bateup attended the Panel to make representations from Sussex Police.
- 15.3 The Licensing Manager summarised the application as set out in the report. A closure order under Section 161 of the Licensing Act 2003 was made on the New Bush by Sussex Police on 10 June 2006. The order was considered and confirmed by the Magistrates Court on 15 June 2006. Temporary conditions requested by the police were currently in place. A number of representations had been received from local residents.
- 15.4 Mr Bateup set out the police representations. He reported that the Premises opened on 9 June 2006. A couple of phone calls were received on 9 June from members of the public, but the police were unable to attend. The premises was closed for violent disorder on 10 June 2006. During the afternoon a police officer had attended the New Bush to observe and received a rowdy and vocal reception. There was no aggression at that point.
- 15.5 At 19.55 hours a member of the public called the police to say that there was a large fight outside the premises. More phone calls followed. Some calls reported between 40 to 60 people fighting and using chairs as weapons. The police responded by sending 10 to 15 officers. The violence had finished by the time the police arrived. A number of people were inside and outside the premises. There were no door supervisors on the premises.

- 15.6 The police had observed a member of staff with blood on his face and hands. He appeared intoxicated. Persons inside and outside also appeared intoxicated. There was glass on the floor. No criminal prosecutions had taken place. Since the closure the manager had co-operated with the police. There had been no further complaints since the closure.
- 15.7 The letter from Sussex Police dated 27 June set out the conditions they wished to see attached to the licence.
- 15.8 Mr Thomas pointed out that although there had been claims of 50 to 60 people fighting on 10 June, this had not been observed by the police. By the time the police arrived there was no fighting. Tables and chairs had not been used for fighting. These items had been removed earlier in the day.
- 15.9 Mr Thomas explained that two people had had a disagreement. A crowd of about 20 or 30 had gathered but they were not fighting. Nothing had happened inside the pub.
- 15.10 Mr Thomas described the incident as unfortunate. He considered the police action appropriate and the licensee had agreed to close the pub.
- 15.11 Meanwhile, the intention was to create a family pub, with a good varied food menu, which would be welcoming for the community.
- 15.12 The pub owners were keen to work with the police as closely as possible. They asked for a three months review after this hearing. The police had asked for an age 21 proof of age scheme. The pub owners wanted to operate a no under 25 policy.
- 15.13 With regard to capacity limits, Mr Thomas considered 140 within the building and in the garden would be appropriate. This would enable the pub to be financially viable. Meanwhile, the pub was keen to keep benches outside and would be prepared to fix them to the floor.
- 15.14 A statement was read to the panel by one of the pub owners apologising for the incident. A letter of apology had also been sent to neighbours.
- 15.15 **RESOLVED** – That the conditions of the premises licence be modified as follows:-

The opening times of the premises be amended to:

11.30 to 23.00hrs Monday to Thursday for the sale of alcohol,

with the premises closing to the public (with all patrons out of the premises and the doors locked) by 23.30hrs.

11:30 to 24:00 hrs Friday and Saturdays for the sale of alcohol, with the premises closing to the public (with all patrons out of the premises and the doors locked) by 00:30 hrs. On Friday and Saturday nights there will be no admission or readmission to the public after 22:30 hrs until close.

On Sundays the premises will open at 12.00 noon and alcohol being sold until 22.00hrs, with closure at 22.30hrs. There will be no 'lock-ins', private parties or other functions etc outside of these hours.

Door Supervisors

On Thursday, Friday and Saturday nights from 20.00hrs until close, a minimum of two SIA registered door supervisors will operate from the premises until close. The principal purpose of the door supervisors will be to control entry to the premises. This condition cannot be satisfied by having management or bar staff working at the premises who also have an SIA badge.

Door Supervisors, ancillary provisions

1. All personnel carrying out security (door supervisors) shall be licensed by the Security Industry Authority.
2. Records shall be maintained at the premises containing the full name, date of birth, and home address of every door supervisor.
3. On initial employment of the door supervisor authentic proof of identity shall be obtained in the form of a passport, drivers licence or birth certificate.
4. The record shall include all dates and times when a door supervisor is employed.
5. If staff are employed through an agency, the name and address of the agency must be included in the entry referring to the person employed by the agency.
6. Any such record must be in a form approved by the Licensing Authority. [In the event that no form is either issued or approved by the licensing authority, the management may draft their own form but this must contain all the information stipulated in this section].
7. The DPS (or in the absence of the DPS the person with delegated authority) shall ensure door supervisors display their SIA badges at all times when they are on duty.

CCTV

Digital CCTV and appropriate recording equipment to be installed, operated and maintained throughout the premises internally and externally to a standard specification following consultation with Sussex Police. 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 requested for the prevention and detection of suspected or alleged crime.

Improved interior and exterior CCTV devices to be installed to capture the front and rear exits, the beer garden, the whole bar area including the pool table, restaurant and conservatory areas. External lighting to be reviewed to ensure the capture of footage will be clear and not distorted due to poor light. These improvements should be carried out to the satisfaction of the Police by the end of July 2006.

Proof of age upon admission and children

Subject to the next paragraph, no persons under 18 will be admitted to the premises. The premises will operate a 'challenge 21' scheme whereby anyone who appears to be aged 21 or younger is asked for photographic ID to prove their age. The only ID that will be accepted are passports, a driving licence with a photograph or Portman Group proof of age cards bearing the 'PASS' mark hologram. The above list of acceptable proof of age items may be extended to other forms of ID in the future with advance written agreement of the police without the need to review the actual licence.

No UNACCOMPANIED children under the age of 16 will be permitted on the premises after 21:00hrs.

Capacity Limits

The maximum number of persons on the premises (including both indoor and outside areas) will be restricted to 140 persons.

Garden Area

The garden area will be closed at 21:00 hrs each evening and no customers will be allowed in the garden area at this time. The only access to the pub garden is via the main entrance, with the gates to the pub garden closed.

Outside area

Drinking by patrons in the area immediately in front of the pub seated at tables/benches will be allowed in from opening until 21:00 hrs only, after which any remaining patrons must go inside the premises. All drinks consumed in the outside area must be in plastic or shatterproof glasses. Management will not allow patrons to congregate outside of the premises on the pavement, the curb or in the road whilst drinking etc.

Plastics and shatterproof glass

The bar area

Glassware may be used up until 20:00 hrs only, with all glasses removed from 20:00 hrs until close. During the World Cup football tournament however, the premises will use plastics only (no glassware) from opening until close if there is an England football team match on.

From 20:00 hrs until close, the bar area will with immediate effect, convert fully to plastic, toughened or glasses that disintegrate into tiny pieces with no sharp edges when broken. With immediate effect no glass bottle will be supplied to patrons. In the event that any particular drink is not available in a plastic bottle, the drink will be decanted into a plastic or toughened glass.

The restaurant area

In the restaurant area there will be waiter/waitress service to persons seated at tables at all times. In this area wines, spirits and soft drinks may be served in glasses with no time restriction for converting over to plastic or shatterproof glasses. Beer and lagers etc served in pint and half pint glasses must still be served in the restaurant area in plastic or shatterproof glasses.

There will be no cross over between bar and restaurant areas, with patrons not permitted to take glass containers into the bar area after 20:00 hrs etc.

Designated Premises Supervisor in attendance

The named DPS will be on site in a direct supervisory capacity at the premises on Thursdays, Fridays and Saturday evenings from 19:00 hrs. In the event that the DPS is not available on these days and times, a Personal Licence Holder must be

present at the premises.

Regular review meetings with Police Licensing

The premises management will have regular three monthly meetings with the Police to review the operation of the premises.

At the first three monthly review subsequent to the Council Licensing Committee Hearing, the management working with Police Licensing, will review the existing conditions in the light of the post-hearing management and control of the premises. The premises may then apply for a formal variation of the conditions with the agreement of the Police.

During the screening on the premises of World Cup Football matches, European Championship Football (including England qualifying matches), and home matches of Brighton and Hove Albion Football Club, the following conditions will apply:

1. All drinking receptacles are to be plastic with no glasses being issued at all. All bottles are to be plastic only (no glass) and in the event of drinks not being available in plastic bottles, drinks are to be decanted into plastic glasses.
2. The pool table will be made inoperative (ideally totally removed from the public area if physically possible, or covered) for the entire day. Pool cues, triangles and balls will be completely removed from behind the bar area and secured elsewhere.
3. The capacity of the premises will be limited to a maximum of one hundred persons plus staff and door supervisors. Clickers will be used by door staff to control and evidence the control of the number of persons inside the premises.
4. During these matches (two hours before kick off and thereafter until close), no persons under 25 will be admitted to the premises unless accompanied by a parent or an official legal Guardian.
5. The DPS will be on duty at the premises two hours before kick off until close.

6. When England are playing in international matches 2 SIA registered door staff will operate from the premises starting two hours before the kick off until close. One door supervisor to be on the door and one operating inside the premises.

The Panel noted that the licence holders were in agreement with the above measures and conditions and that the Panel considered them necessary to promote the licensing objectives.

Reasons for modifications. The Panel is satisfied that this course of action is necessary to address the concerns raised.

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 of the Licensing Panel.

16. TEMPORARY EVENT NOTICE – PAVILION STREET, ADJACENT TO THE MARLBOROUGH HOTEL, 4 PRINCE'S STREET, BRIGHTON

- 16.1 The Panel considered a report of the Assistant Director, Public Safety, regarding the police objection, issued under section 104(2) of the Licensing Act 2003, to a temporary event notice. The Panel was asked to determine whether it was considered necessary to issue a counter notice to the premises operator, for the promotion of the crime prevention objective (for copy see minute book).
- 16.2 The applicant Mr Walker, area manager of Zel Grain Limited, attended the Panel with his representative Mr Perkin. Mr Bateup attended the Panel to make representations from Sussex Police.
- 16.3 The Licensing Manager summarised the application as set out in the report. Mr Walker had issued a Temporary Event Notice for a street party in Prince's Street. The police notice of objection was appended to the report. The hearing was limited to considering crime prevention objectives. If the panel supported the request of the police, a counter notice would be issued. If the Panel did not agree with the police, a licence would be issued.
- 16.4 Mr Bateup set out the police representations. He reported that the premises was well run by Mr Walker. Zel Grain Limited had applied for a number of temporary event notices and there had not been a problem with any of them. Normally, the police would not have objected, but the Pride Celebrations were not an ordinary event. At 7.00 pm, following the event in

Preston Park, there would be a mass exodus of people to the St James's Street area where there was a traditional street party.

- 16.5 The police considered that serious crime prevention issues had arisen during the Pride celebrations in 2005. The crushing and sheer numbers of people in the St James's Street area was considered dangerous, and drug dealing had been carried on openly in the street. As a result the Pride operators were distancing themselves from the St James Street event this year.
- 16.6 Mr Bateup reported that there had been a number of discussions between the Pride Organisation Committee and the responsible authorities. There would be a formal road closure in St James's Street on the night of the Pride event and a relaxed café bar event in the evening. People would be able to buy alcohol in plastic glasses and socialise in the street. The police would turn a blind eye to the citywide Designated Public Places Order (where it is an offence to drink alcohol after being required to do so by a police officer). Meanwhile, the police were asking people not to have outside events and section off parts of the pavement. This request applied to St James's Street and the adjoining roads. This would allow the free flow of people and access for emergency vehicles.
- 16.7 The police were concerned that this application did not conform to what had been agreed with other venues. If the police agreed to the request, other venues in the area might issue temporary event notices. The police were asking for no temporary event notices on the night in question.
- 16.8 Mr Walker informed the Panel that he had spoken to the police before issuing the notice. The police only raised three concerns. Mr Walker had held similar events in Prince's Street in previous years (but not last year).
- 16.9 Mr Walker was concerned at the police stance of turning a blind eye to drinking in the street. He wanted to run an ordered event where numbers could be limited and people monitored for drug use. Mr Walker considered that Prince's Street was some distance away from St James's Street. His proposal was to have 6 SIA door supervisors during the event. All would have clickers and radios. They would be able to monitor any potential trouble in the area. There would also be 2 managers and staff to monitor the situation. Meanwhile, there would be 6 foot barriers at either end of the street. These could be moved in case of emergency.

- 16.10 Mr Walker explained that there would be a DJ inside the pub and speakers in the street. Neighbours would be informed of the event and invited to attend. The terminal hour would be 01.00 hours. Mr Walker stressed that the event attracted a broad group of people. Past events had been good humoured and trouble free.
- 16.11 Mr Perkins stressed that there was no evidence that the event would lead to crime and disorder.
- 16.12 **RESOLVED** – That the Panel do not consider that there are crime and disorder implications in relation to the proposed event and therefore will not issue a counter notice to the premises operator.

The Panel solicitor reminded the police 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 6.28pm

Signed

Chair

Dated this

day of

2006