

BRIGHTON & HOVE CITY COUNCIL

LICENSING PANEL (Licensing Act 2003 Functions)

2.00PM – 27 JULY 2006

**COMMITTEE ROOM 3
BRIGHTON TOWN HALL**

MINUTES

Present: Councillor 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

21. ELECTION OF CHAIR

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

22. PROCEDURAL BUSINESS

22A. Declarations of Substitutes

22.1 There were no declarations of substitutes.

22B. Declarations of Interest

22.2 There were none. Councillor Simson stated that although the Toby Inn was in her ward, she was not connected with the premises and she lived nowhere near it.

22C. Exclusion of Press and Public

22.3 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.

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

23. REVIEW OF A PREMISES LICENCE ISSUED UNDER THE LICENSING ACT 2003 – THE TOBY INN, COWLEY DRIVE, BRIGHTON

23.1 The Panel considered the report of the Assistant Director, Public Safety, regarding a review of a premises licence issued under the Licensing Act 2003 for The Toby Inn, Cowley Drive, Brighton (for copy see minute book).

23.2 Mr Parmenter, Business Development Manager, Admiral Taverns attended the Panel with his representative Mr Wormald. Mrs Karen Overton, Designated Premises Supervisor attended the Panel with her husband, Mr Chris Overton and Mr Menzies, a customer and resident. Inspector Whitehead attended from Sussex Police accompanied by PC Cheeseman and Mr Bateup.

23.3 The Licensing Manager summarised the application as set out in the report. A closure order under Section 161 of the Licensing Act 2003 was imposed on the Toby Inn by Sussex Police on 7 July 2006. The order was considered by the Magistrates Court on 12 July 2006, who confirmed the order, and further required that "the premises remain closed until such time as the relevant licensing authority has made a determination in respect of the order for the purposes of section 167 Licensing Act 2003." Sussex Police requested that the licence should be revoked, but had set out conditions they would wish to see in place if the Panel were not minded to impose the closure.

23.4 The Licensing Manager reported an error in the report. There had been no representations from local residents.

23.5 Inspector Whitehead set out the police representations. He informed the Panel that the Police requested the review after the closure of the pub on 7 July. There had been 33 separate phone calls to the police regarding the Toby Inn over the last year. Many of these calls related to the incidents that occurred on 1 July and 7 July.

23.6 Inspector Whitehead gave details of a number of serious incidents at the Toby Inn over the last 12 months leading up the incident on 7 July 2006.

23.7 He reported that on 7 July 2006, there was a serious disturbance at the Toby Inn, involving assaults, criminal damage and possibly aggravated burglary. The Police issued a S.161 closure order forcing the premises to close. The premises had not reopened to the public since the closure order took effect.

- 23.8 The letter from Sussex Police dated 20 July set out a summary of the incident on 7 July and the reasons why the Police wished to see the licence revoked. The letter also set out conditions they would wish to see attached to the licence if the Panel were not minded to impose the closure.
- 23.9 Inspector Whitehead confirmed that the police arrived at the Toby Inn within five to ten minutes after the first phone call had been received on the night of 7 July 2006. This would have been about 23.30 hours.
- 23.10 Mr Wormald, Counsel for Admiral Taverns addressed the Panel. He reported that the premises licence holder was Admiral Taverns. The Toby Inn was acquired from Punch Taverns in December 2005. The pub had been leased to Beaubrook Ltd who were responsible for the day to day running of the premises and employing the Designated Premises Supervisor. The lease with Beaubrook Ltd was terminated in June 2006, when they were given notice to quit.
- 23.11 Mr Wormald reported that Admiral Taverns had spoken to the police about the future. The commercial options were to redevelop the premises completely or refurbish the pub and let it out again. Admiral Taverns were opposed to the idea of revoking the licence, but were not opposed to a three month suspension. During this period a new tenant would be engaged. When the pub re-opened there would be stringent conditions. The pub would not re-open until the conditions were all in place. Three months would be commercially realistic. Mr Wormald reported that he could not speak on behalf of Mrs Overton.
- 23.12 The Panel agreed that in the interest of natural justice, Mrs Overton, the Designated Premise Supervisor should have a right to address the Panel.
- 23.13 Mrs Overton reported that she had been unaware that the tenancy with Beaubrook had been terminated. She was a self employed manager and felt that she should not be blamed for the two incidents on 1 July and 7 July 2006. She considered that no Designated Premises Supervisor could have stopped the incidents.
- 23.14 During the incident on 7 July, Mrs Overton tried to get as many patrons as possible into her personal flat above the pub. The only children in the building were her three grandchildren. Two of the children remained upstairs in her flat. The third child had come down stairs for a brief period to kiss his mother goodnight. His mother was carrying him upstairs when the trouble began. There were no children sitting in the bar. There was no-one drinking outside.
- 23.15 Mr Overton reported that the police received so many phone calls

because it took them 20 to 25 minutes to turn up. He disputed the Police account that they had arrived in 5 to 10 minutes. Within 10 minutes the pub had been totally smashed up.

- 23.16 Mrs Overton explained that after the incident on 1 July, she had contacted Liam Kelleher of Beaubrook Ltd, to inform him that the Police had requested that door supervisors be employed on Friday and Saturday nights. Mr Kelleher had refused this request.

- 23.17 **RESOLVED** – That the premises licence be revoked.

Reasons for Revocation of the premises licence. The Panel considers that this action is necessary to meet the licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance. The Panel has heard evidence of serious public disorder on the premises and evidence of poor management and poor company practice. Because of this the Panel believe that a three month suspension even with a change of management will not be sufficient to address the problems.

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 which was given on 27 July 2006.

24. APPLICATION FOR A PROVISIONAL STATEMENT UNDER THE LICENSING ACT 2003 – NORTH ROAD INN (provisional name), 102 NORTH ROAD, BRIGHTON

- 24.1 The Panel considered a report of the Assistant Director, Public Safety, regarding an application for a provisional statement under the Licensing Act 2003 for the North Road Inn (provisional name), 102, North Road, Brighton (for copy see minute book).
- 24.2 The applicant, Mr George from Zelgrain attended the Panel with his representative Mr Perkins. The residential objectors and representatives of the local residents association were not in attendance.
- 24.3 The Licensing Manager summarised the application as set out in the report. Two representations had been received from local residents and one from a local residents' association in relation to the anticipated negative impact of the proposed operation in relation to crime and disorder and public nuisance and the cumulative impact of an additional late night drinking establishment in the area.
- 24.4 The Licensing Manager informed the Panel that a provisional statement gives an applicant about to engage in a development a certain degree of assurance about their prospects for any future

application for a premises licence. A Provisional Statement cannot be converted and an applicant must apply for a Premises Licence in the same way as everyone else. Objections that could have been made but were not made at the time of the Provisional Statement application are excluded from the Premises Licence application except if there is a reasonable excuse or a material change in the circumstances of the premises or vicinity.

24.5 It was further reported that the applicants had planning permission for change of use (A4). Planning permission was now being sought to change the conditions and request permission to use the rear courtyard for A4 use.

25.6 It was confirmed that the hours stated in the committee report were incorrect. The applicants were applying for the following hours.

Supply of Alcohol – Sunday to Thursday 8.30 to 00.00
 Friday and Saturday 8.30 to 01.00

Hours open to the public – Sunday to Thursday 8.30 to 00.30
 Friday and Saturday 8.30 to 01.30

25.7 Mr Perkins informed the Panel that his clients wished to open a public house on the site and complete a substantial refurbishment of the building. The hours requested would give his clients some flexibility and would not be used every day.

25.8 Mr Perkins stressed that the operating schedule stated that external drinking areas would be cleared and closed by 23.20 hours and that any sound amplification system would be governed by an AVC set at a level agreed by the Environmental Health Officer. Mr Perkins suggested further conditions that would be acceptable to his clients. These were as follows. Live music could be restricted to no more than two musicians. Signage could be placed in the public house asking people to leave the premises quietly. Windows and doors could be closed after 23.00 hours when live music was played. It was not anticipated that recorded music would be a problem, as DJ's would not be used. Patrons would not leave the pub from Cheltenham Place.

25.9 Mr Perkins reminded the Panel that no representation had been received from the police. He considered that if the pub opened there would be no issue of noise nuisance or public disorder. Mr Perkins considered that there was no evidence of cumulative impact.

25.10 Mr George confirmed that there were two outside areas. A courtyard at the back and a terrace at the front.

24.11 **RESOLVED** – That the application for a provisional statement be granted with the following conditions:-

(1) Doors and windows shall be kept shut after 23.00 hours when live music is being played, except for access and egress.

(2) 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.

(3) 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.

Reasons for attaching conditions: It was considered that the above conditions were sufficient measures to meet the licensing objectives.

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 4.12pm

Signed

Chair

Dated this

day of

2006