

BRIGHTON & HOVE CITY COUNCIL

LICENSING PANEL (Licensing Act 2003 Functions)

2.00PM – 22 AUGUST 2006

**COMMITTEE ROOM 3
BRIGHTON TOWN HALL**

MINUTES

Present: Councillors Lepper (Chair) Older and Paskins.

Also in attendance: Tim Nichols, Head of Environmental Health and Licensing,
Liz Woodley, Panel Solicitor and Estelle Woodcock, Committee Administrator.

PART ONE

34. ELECTION OF CHAIR

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

35. PROCEDURAL BUSINESS

35A. Declarations of Substitutes

35.1 There were no declarations of substitutes.

35B. Declarations of Interest

35.2 There were none.

35C. Exclusion of Press and Public

35.3 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.

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

35D. AGENDA ORDER

35.5 It was agreed with the consent of all parties to consider the items in the following order: 39, 38, 37.

36. APPLICATION FOR A PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 – THE WORLDS END, 60-61 LONDON ROAD, BRIGHTON

36.1 This application had been withdrawn from the agenda.

37. APPLICATION TO VARY A PREMISES LICENCE UNDER THE LICENSING ACT 2003 – CACAU, 128 WESTERN ROAD, BRIGHTON

37.1 The Panel considered a report of the Assistant Director, Public Safety, regarding the application for the variation of a premises licence for Cacau, 128, Western Road, Brighton (for copy see minute book).

37.2 Mr S Zargham, a director of the applicant company, attended the Panel with his representative Mr Simmonds. Mrs M McDonald attended as a residential objector together with Councillor Pennington who represented No 7 Temple Street and other residents.

37.3 The Licensing Manager summarised the application as set out in the report. Representations had been received from a number of local residents on the grounds of public nuisance from noise should the application be granted.

37.4 Councillor Pennington stated that he had visited a number of objectors' properties to assess the impact of the application. There was a serious problem with noise in the early hours as sound from the rear of the premises travelled across gardens and bounced back from the walls surrounding it. There was also noise from the front of the premises. Mrs McDonald stated that she was objecting because there were children living near to the premises, who were being woken regularly in the middle of the night. The extractor fan used in the past had been very noisy. People living on Temple Street were affected by customers, who had parked there, shouting and driving away. Tables and chairs on the Western Road frontage, the levels of music, and the use of bins in the yard all added to the inconvenience. She suggested the premises close at midnight. Mrs McDonald acknowledged that Cacau had only recently opened and she was speaking from experience of the premises under its previous name.

37.5 Mr Simmonds stated that his client was putting measures into place to address problems. The entrance/exit was at the front and no-one needed to use the rear yard at night. Conditions could be imposed relating to use of bins and closing the rear door and windows. Staff training would take place. A loud speaker would be relocated to reduce noise pollution from music. Refreshments were normally taken on the

premises with only a few takeaways. Mr Zargham's mobile telephone number would be given to objectors, so that they could contact him immediately if necessary. Mr Simmonds requested that live music be permitted, as it had been in the past.

37.6 Questions were asked of the applicant and the Panel learned that staff used the yard for smoking and that there was a plasma screen television, which added to the noise. Mrs McDonald stated that rear doors and windows should be closed earlier than 23.00 hours.

37.6 **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, except that live and recorded music, including that provided by DJ, shall end at 00.00 hours, Monday to Sunday.

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

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

(b) 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.

(c) 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.

(d) The Licensee shall ensure that the placing of refuse – such as bottles – into receptacles outside the premises shall not take place between the hours of 19.30 hours and 09.00 hours the following day in order to minimise the disturbance to nearby properties.

(e) Outside tables shall be cleared by 23.00 hours.

(f) All windows and doors to the rear of the property shall be closed between 22.00 hours and 09.00 hours the following day.

(g) The outside area at the rear of the property shall not be used except in an emergency between the hours of 23.00 hours and 09.00 hours the following day.

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.

[NOTE: The Licensing Manager declared that he knew Mrs McDonald, but that he was not biased insofar as the application was concerned. It was also noted that one of the representations had passed to Licensing through D Lepper MP's office but Councillor Lepper was not aware of this.]

38. APPLICATION FOR A VARIATION TO A PREMISES LICENCE UNDER THE LICENSING ACT 2003 – COPACABANA (PREVIOUSLY KNOWN AS FRANKY & JOHNNY) 35 QUEENS ROAD, BRIGHTON

- 38.1 The Panel considered a report of the Assistant Director, Public Safety, regarding an application for a variation to a premises licence under the Licensing Act 2003 for Copacabana, 35 Queen's Road, Brighton (for copy see minute book).
- 38.2 Mr S Zargham, a director of the applicant company, attended the Panel with his representative, Mr D Simmonds. Mr McLaughlin attended as residential objector. Alun Cance, Environmental Health Officer, attended for this application.
- 38.3 The Licensing Manager summarised the application as set out in the report. A number of representations had been received from local residents relating to the anticipated negative impact on the proposed variation in respect of public nuisance. The Pollution Team had made a representation in relation to public nuisance. A complaint against the premises was currently under investigation.
- 38.4 The Environmental Health Officer stated that, since writing his letter of 28 July, published with the agenda, he had met the applicant. He informed the Panel of a number of measures, which had been agreed with the applicant to address complaints and handed the Chair a written copy of these.
- 38.5 Mr McLaughlin stated that since opening the Copacabana had caused a great deal of nuisance because it was a particularly noisy venue. It had affected the nature of the surrounding area. The tall buildings around the premises caused noise to echo. He considered that the measures outlined by the Environmental Health Officer would not work, for example

the door closing device would not be used in hot weather and the music would be too loud. Mr McLaughlin was also concerned that, if air conditioning had to be installed, the associated equipment would inconvenience residents. He stated that extending the hours, especially for live music, would be intolerable. The Panel also noted that a television had been audible to objectors during the World Cup.

- 38.6 Mr Simmonds stated that Mr Zargham was prepared to improve the nature of the business and to consult the neighbours. He had already worked in accordance with the police guidance on prevention of crime. Preventing customers from congregating on the steps or in the courtyard would help address concerns, as would a programme of staff training. He acknowledged that taking rubbish up and down stairs had been a problem. Mr Zargham's mobile telephone number would be made available to all objectors, so that they could contact him immediately if necessary. Mr Simmonds denied that the premises had changed the nature of the area, as Queens Road was busy day and night. Granting the application would reinstate the right to hold entertainment.
- 38.7 The Chair expressed concern that 3 residents had submitted letters stating that they were unable to sleep due to noise. The Panel examined the floor plans.
- 38.8 The Licensing Manager advised on the powers available to the council to prevent noise pollution.
- 38.9 **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 as follows:

Sale of alcohol: Sunday to Wednesday 08.00 hours to 23.30 hours.
Thursday, Friday and Saturday 08.00 hours to 00.30 hours.

Open to public: Sunday to Wednesday 08.00 hours to 00.00 hours.
Thursday, Friday and Saturday 08.00 hours to 01.00 hours.

Refreshments: Sunday to Wednesday 08.00 hours to 00.00 hours.
Thursday, Friday and Saturday 08.00 hours to 01.00 hours.

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

(a) Live and recorded music to cease by 23.30 hours every night.

(b) A sound limiting device will be installed and set at a level agreed with the Local Authority.

(c) Live musicians will not be able to use their own amplification. Any amplifying of their instruments must go through the in-house amplifier that will be governed by the sound limiting device.

(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) The rear door of the premises must be kept closed at all times save for access and egress to the toilets. The door must be maintained in good condition in order to aid this and the installation of a self-closing device should be considered.

(g) Patrons or staff will not be allowed to congregate and/or socialize on the rear outside steps or in the outdoor courtyard area.

(h) Staff will be instructed and trained in ways of controlling and ensuring that noise levels do not become excessive.

(i) 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 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 due to the close proximity of local residents and the open access at the rear.

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.

39. APPLICATION FOR A VARIATION OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 – ST GEORGE'S INN (PREVIOUSLY KNOWN AS SUDELEY ARMS), 33 SUDELEY STREET, BRIGHTON

- 39.1 The Panel considered a report of the Assistant Director, Public Safety, regarding an application for a variation of a premises licence under the Licensing Act 2003 for St George's Inn, 33 Sudeley Street, Brighton (for copy see minute book).

- 39.2 Mr G George, from the applicant company Zelgrain, attended the Panel with his representative, Mr Perkins. Two residential objectors attended: Mr J Cotter and Mr D Woodman.
- 39.3 The Licensing Manager summarised the application as set out in the report. He stated that there was some history of noise complaints. Two representations had been received from local residents which related to concerns over the anticipated negative impact of extended opening hours in relation to noise levels and public nuisance.
- 39.4 Mr Cotter advised the Panel that this was a residential area and that he could hear not only the sound from the pub garden (which adjoined his garden) but from the street at the front of the premises up to an hour after closing time. Mr Woodman stated that his objection related to the use of the garden. There could be up to 70 people, particularly during special events. Buildings surrounded the garden; therefore noise was trapped. Patio heaters were used to extend the hours the garden could be used.
- 39.5 Mr Perkins stated that the applicant had worked hard to make this a family pub. He had consulted local people. Mr Perkins pointed out that grandfather rights existed. There were only 2 complaints and they related to use of the garden. Mr George would ensure that no drinks were served to the customers in the garden after 23.00 hours and that it was cleared and closed by 23.30 hours. Signs were in place to ask customers to leave the pub quietly. Mr Perkins and Mr George responded to questions about the exits, live music, and the capacity of the pub inside and out.
- 39.6 The Panel noted that there had been a hearing relating to these premises during 2005 when Mr Woodman had drawn attention to an irregularity.
- 39.7 **RESOLVED** – That the application for a variation of a premises licence be granted with the following conditions:-
- (1) 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.
 - (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.
 - (4) All outside areas to be closed and cleared from 23.30 hours and the

door leading from the pub to the garden be closed after 23.30 hours.

Reasons for attaching conditions: It was considered that there were no grounds to turn the application down and 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 5.40 pm

Signed

Chair

Dated this

day of

2006