

## Brighton & Hove City Council

For general release

**Meeting:** Licensing Committee

**Date:** 3<sup>rd</sup> October 2006

**Report of:** Assistant Director – Public Safety

**Subject:** Review of a Premises Licence under the Licensing Act 2003

**Licence Holder:** Zelgrain Limited, 50 West Street, Farnham, Surrey

**Premises:** The Ancient Mariner  
59 Rutland Road  
Hove  
East Sussex

**Ward(s) affected:** Westbourne

### 1. Purpose of the report

1.1 To determine an application for a review of a premises licence.

### 2. Summary of review process

2.1 Existing licence attached Appendix A

2.2 A person living in the vicinity of the relevant premises is an interested party, and may in that capacity apply under Section 51 of the Licensing Act 2003 for a review of a premises licence in respect of the premises.

2.3 An application was received by the Licensing Authority from Mr G. A. Witherington of 57 Rutland Road, Hove to review the licence granted to Zelgrain limited for the premises known as the Ancient Mariner, 59 Rutland Road, Hove

2.4 The application for review relates to the following licensing objectives:  
the prevention of public nuisance;  
the protection of children from harm.

Full details of the grounds for review are attached in Appendix B.

2.5 At this hearing the licensing authority must

- Consider the representation made in accordance with Section 51

- Consider any relevant representations
- Take such steps (if any) as are considered necessary for the promotion of the Licensing objectives. These steps are
  - to modify the conditions of the licence
  - to exclude a licensable activity
  - to remove the designated premises supervisor from the licence
  - to suspend the licence for a period not exceeding 3 months, or
  - to revoke the licence.

And for this purpose the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added. It may provide that the modification or exclusion have effect for a specified period not exceeding 3 months. The determination, if not completed at the hearing, shall be within 5 working days of the hearing. Such determinations do not have effect until after the appeal period or, if an appeal is lodged, until after the appeal is disposed of.

### **3. Representations received**

- 3.1 One representation was received from an immediate neighbour on the grounds of public nuisance and harm to his children from noise disturbance caused by the failure on the part of the licence holder to close doors at the premises and clear the outside area of patrons by 23.00.

### **4. Commentary on licensing policy**

- 4.1 The following extracts from Brighton & Hove Licensing Policy are considered relevant to this application and numbered as they appear in the policy:

#### **General**

- 1.2 The licensing objectives are:-
- (a) prevention of crime and disorder;
  - (b) public safety;
  - (c) prevention of public nuisance;
  - (d) protection of children from harm.

1.4 Each application will be given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act

1.14 Licensing law is not the primary mechanism for the general

control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act, and the conditions attached to licences, certificates and permissions will be focused on matters which are within the control of the licensee and will centre on the premises themselves and their immediate vicinity. When considering these terms and conditions the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

In respect of the prevention of public nuisance

4.2 In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, or as a result of people entering or leaving the premises.

4.3 Applications for new licences or for the extension in size of licensed premises should not normally be granted if the premises will use amplified or live music and operate within or abutting premises containing residential accommodation except that occupied by staff of the licensed premises. A condition may be imposed on new licences that entertainment noise shall be inaudible in any residence.

4.4 Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.

4.5 Staggered closing times will not be used to combat binge drinking disorder and antisocial behaviour. Zoning will be avoided. A general principle of later opening so that customers can leave for natural reasons, slowly over longer periods will be promoted, to prevent unnatural concentrations of people. The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.

4.6 Generally permitted temporary activities in the open air including tents and marquees should have a maximum closure hour of 11.00pm. Earlier hours may be imposed in sensitive open spaces or near residential areas.

4.7 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.

4.8 Regard will be had to any history or likelihood of nuisance. Generally, favourable consideration will be given to applications for later hours in the city centre and on busy main roads. Powers may be exercised to impose conditions as to hours of opening in order to avoid unreasonable disturbance to residents of the neighbourhood.

In respect of the prevention of children from harm

*(Please note that the policy does not address the issue of harm to the health of children in neighbouring properties as specified in the application for review. This issue should be considered in accordance with policy paragraphs 4.2 to 4.8 above).*

In respect of Live music, Dancing and Theatre

7.1 This policy recognises the need to encourage live music, dancing and theatre for the wider cultural benefits of the community generally. In addressing such issues the potential for limited disturbance in neighbourhoods will always be carefully balanced with these wider benefits, particularly for children. The impact of licensing on regulated entertainment, particularly live music and dancing, will be monitored. Where indications are that such events are being deterred by licensing requirements, the policy will be revisited with a view to investigating how such situations might be reversed.

7.2 The Licensing Committee represents the general interests of a community. In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives. The Licensing authority is aware of the need to avoid measures which deter live music, dancing and theatre - such as imposing indirect costs out of proportion to the income of the licence holder and to the risks presented. Only necessary, proportionate and reasonable licensing conditions should impose any restrictions on such events.

Case Officer: Keith Mitchell

