

**BRIGHTON & HOVE CITY COUNCIL**  
**LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)**

**2.00PM – TUESDAY 3 OCTOBER 2006**

**COMMITTEE ROOM 3 – BRIGHTON TOWN HALL**

**MINUTES**

Present: Councillors Simson (Chair), Hyde and Turner

Also in attendance: Jean Cranford, Licensing and Projects Manager, Rebecca Sidell, Panel Solicitor and Caroline De Marco, Committee Administrator.

**PART ONE**

**50. APPOINTMENT OF CHAIR**

50.1 Councillor Simson was appointed as Chair of the meeting.

**51. PROCEDURAL BUSINESS**

**51A Declarations of Substitutes**

51.1 There were no declarations of substitutes.

**51B Declarations of Interest**

51.2 There were none.

**51C Exclusion of Press and Public**

51.3 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.

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

**52. REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 – THE ANCIENT MARINER, 59 RUTLAND ROAD, HOVE**

52.1 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 Ancient Mariner, 59 Rutland Road, Hove (for copy see minute book).

- 52.2 Mr George from Zelgrain Limited and Mr Short, the Designated Premises Supervisor attended the Panel with their representative Mr Perkins. Councillor Brian Oxley attended on behalf of his constituent Mr Witherington. Mr Witherington had applied for the licence to be reviewed.
- 52.3 The Licensing Manager summarised the application as set out in the report. An application had been received for the licence to be reviewed. No further representations were received by the closing date on 13 September 2006. There had been three complaints in 1999, 2003 and 2005, which had all been resolved. Door closers had now been fitted.
- 52.4 Councillor Oxley informed the Panel that the garden area of the pub was not being cleared by the times agreed on the licence and that bottles were being disposed of in the early morning. Noise resulting from these activities was a public nuisance and could cause harm to children who were disturbed. Councillor Oxley considered that the conditions attached to the licence should be altered. He was concerned that the condition relating to automatic door closers, took a year to enforce.
- 52.5 Mr Perkins made the point that the representation stated that the outside seating area had not been cleared of patrons by 23.00 hours on a few occasions. Councillor Oxley replied that he had been given the impression that this was an ongoing problem.
- 52.6 Councillor Oxley explained that on occasions, at the end of the trading day, bottles were transferred from one container to another in the early hours.
- 52.7 Mr Perkins stated that his clients submitted that they did not move bottles or barrels after 17.00 or 18.00 hours. Bottles were stored in the premises and disposed of in the morning. There had been two occasions when new members of staff had taken bottles outside after 21.00 hours. This had not been repeated.
- 52.8 Mr Perkins explained that music was background only and controlled by a sound limiting device. Meanwhile, his clients started to clear the outside area before 23.00 hours. However, there had been a few occasions when a couple of people had refused to move. On these occasions it had taken about ten minutes to resolve the problem.
- 52.9 The Panel were informed that the Designated Premise Supervisor and his deputy did not work behind the bar. They regularly

patrolled both inside and outside the premises.

- 52.10 Mr Perkins accepted that there had been a delay with the fitting of one door closer to the east facing door, which was not completed until mid July 2006. This east facing door did not face Mr Witherington's premises. The Designated Premises Supervisor confirmed that he cleared the outside area and closed the door in any event.
- 52.11 Mr Perkins concluded by stating that the premises was not noisy and had no live music. There had been no material breach of the conditions that would justify any changes.
- 52.12 **RESOLVED** – That no action is required to promote the licensing objectives.

The Panel have noted that following the advertisement, no further representations were received.

The Panel is disappointed that the door closer to the east facing door, was not fitted until July 2006, but are satisfied that this is a technical breach. The Panel is also satisfied that all possible steps are being taken to ensure that the outside areas are cleared by 23.00 hours. The Panel is pleased that the licensee has taken steps to resolve complaints relating to the moving of barrels and the disposal of bottles, by not allowing these activities to take place during certain hours.

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.

**53. REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 – THE SETTING SUN, WINDMILL STREET, BRIGHTON**

- 53.1 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 Setting Sun, Windmill Street, Brighton (for copy see minute book).
- 53.2 Mr Grant from Punch Taverns, Mr Phillips, the Designated Premises Supervisor, and Ms Scott, Business Adviser attended the meeting with their Counsel, Mr Wormald. Ms Bullen attended the Panel to make representations on behalf of Environmental Health and Licensing, Pollution Team. Mr Vowles, Ms Long and Ms Dodson attended the Panel as residential objectors.

- 53.3 The Licensing Manager summarised the application as set out in the report. The Environmental Health and Licensing, Pollution Team had called for the review of the licence on the grounds of public nuisance. Four representations were received from local residents. Complaints had been received prior to 2000, in 2000, 2003 and 2006.
- 53.4 Ms Bullen from Pollution Control (Environmental Health and Licensing) informed the Panel that the department had received a number of complaints regarding an event on 14 May 2006. Further complaints were received on 26 May and 30 May. Noise Patrol was called out on 7 and 8 July and during these visits a statutory noise nuisance was witnessed. On 12 July a noise abatement notice was served on Punch Taverns (PTL) Limited and Aaron Phillips, the Designated Premises Supervisor. Breach of notice was witnessed on 16 July at 02.15 hours. The matter was being referred for prosecution. Noise patrol was called again on 23 July. All these incidents were detailed in a paper circulated to the Panel.
- 53.5 A meeting had been held with the licensees and the following conditions had been agreed. "Live music will not be reinstated until such time as a noise limiting device to the satisfaction of the environmental health officer has been installed. 2. Recorded music (including background music) will not be played until such time as a noise limiting device to the satisfaction of the environmental health officer has been installed." Ms Bullen was happy for the licence to continue subject to the conditions being agreed by the Panel.
- 53.6 Mr Vowles informed the Panel that since he had moved to his house in December 2005, there had been persistent problems. Loud music had affected the day to day lives of residents. Mr Vowles pointed out that Ms Dodson was often forced to sleep in her back bedroom. Bass noise was particularly disturbing. Excessive noise was also heard outside the licensing hours. Mr Vowles welcomed the suggested conditions and hoped an amicable solution could be reached.
- 53.7 Ms Dodson reported that people leaving the premises in the early hours of the morning were shouting and making a lot of noise. She stressed that there was a condition in place stating that notices should be displayed reminding patrons that the public house was in a residential area and that due regard should be taken to leave the venue in a quiet and orderly manner.
- 53.8 Ms Dodson said that she had spoken to the Designated Premises Supervisor about breaches of licence conditions, but it had

made little difference.

- 53.9 Ms Long informed the Panel that although the garden was supposed to be cleared by 23.00 hours, people were sometimes still in the garden at 23.30 and 23.45 hours. Ms Long had heard 7 or 8 people leaving the premises at 04.00 hours. Ms Dodson had heard 12 to 14 people leaving the premises at 02.00 hours. Mr Vowles reported that the music was often louder after closing hours. There was sometimes a burst of loud music at 03.00 and 04.00 hours.
- 53.10 Mr Wormald informed the Panel that Mr Phillips, the Designated Premises Supervisor had let his eyes stray from the principle business of running the pub. For a while, Mr Phillips had employed a pub manager, and it was acknowledged that licence conditions had not been adhered to. Mr Wormald reported that Mr Phillips wanted to apologise to the residents. The intervention of the pollution team had been a wake up call to Mr Phillips, who had tried to put his house back in order. There had been no problems at all in the last month.
- 53.11 Mr Wormald reported that Mr Phillips was now living at the pub and was solely responsible for managing the premises. Meanwhile, Mr Phillips had been receiving a great deal of assistance from Mr Grant. Ms Scott had been appointed as a business consultant to help with every aspect of the business.
- 53.12 Mr Wormald suggested that the Panel could issue an informal warning and agree the two additional conditions.
- 53.13 Mr Phillips informed the panel that he had tried to deal with complaints. Sometimes his friends had visited him late at night. On these occasions he had asked them to be quiet.
- 53.14 **RESOLVED** – The Panel has seriously considered the removal of the Designated Premises Supervisor and/or the suspension of the licence due to concerns at what had been reported by representatives and the fact that the licensing objectives were not met in relation to public nuisance. However, on this occasion it has been decided to issue an informal warning and to apply the conditions set out below as requested by the Environmental Health Officer and as agreed by the licence holder.

(1) Live music will not be reinstated until such time as a noise limiting device has been installed to the satisfaction of Environmental Health.

(2) Recorded music (including background music) will not be played until such time as a noise limiting device has been

installed to the satisfaction of Environmental Health.

(3) That the noise limiting device be maintained to the satisfaction of Environmental Health.

**Reasons for modifications.**

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

The Panel remind the Licence Holder and the Designated Premises Supervisor of the conditions attached to the licence, particularly the display of notice and encouraging patrons to leave the premises quietly, and especially the hours of operation. These conditions must be complied with at all times.

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.

**The meeting concluded at 3.50 pm**

**Signed**

**Chair**

**Dated this**

**day of**

**2006**