

BRIGHTON & HOVE CITY COUNCIL
LICENSING PANEL
2003 (Licensing Act 2003 Functions)

2.00PM – 26 SEPTEMBER 2005

HOVE TOWN HALL

MINUTES

Present: Councillors Hyde, Older and Simson

Also present: Miss. R. Sidell, Legal Officer, Mr. C. Giddings, Licensing Officer and Mr. M. Wall, Clerk to the Panel.

PART ONE

243. ELECTION OF CHAIR

243.1 **RESOLVED** – That Councillor Simson be elected Chair for this meeting.

244. PROCEDURAL BUSINESS

244A. Declarations of Substitutes

244.1 There were no declarations of substitutes.

244B. Declarations of Interest

244.2 There were no declarations of interest.

244C. Exclusion of Press and Public

244.3 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.

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

245. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – HOTEL PELIROCCO

245.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a Premises Licence already granted under “grandfather rights” at the Hotel Pelirocco, 9/10 Regency Square, Brighton (see Minute Book).

245.2 The Licensing Officer outlined the details of the application, which sought a variation of hours for the provision of alcohol, an extension of opening hours, provision of regulated entertainment and the removal of all embedded restrictions. With the Chair’s agreement, she also circulated a map showing the location of the premises and a copy of “Part Q, Application to vary a premises licence under the Licensing Act 2003”, which had been completed by the applicant.

245.3 The Licensing Officer noted that 1representation from a local business on the basis that there would be increased noise, and the possibility of public nuisance and crime & disorder. He also stated that there were no representations from the Responsible Authorities in respect of the application.

245.4 The Chair noted that there were no questions for the Licensing Officer and therefore asked the interested parties to put forward their representations.

245.5 Mr. Gray stated that he was representing the General Manager of the Royal Pavilion Town House Hotel, who was concerned that the extension in opening hours and ability to allow non-residents into the hotel would increase the potential for public disorder. The square was a mix of residential and hotel accommodation and it was likely that other hotels would follow suit if the application was agreed. He believed that this would be detrimental to the area and therefore should not be approved.

245.6 The Chair noted that Panel Members did not have any questions for Mr. Gray and that confirmation had been given that the applicants had attempted to contact the General Manager to discuss the application, although no discussions had been held. The Chair then asked the applicant to put forward their representations.

245.7 Mr. Simmonds stated that he was representing the applicants and that the Hotel Pelirocco was a 19-bed hotel, which could

accommodate 35 guests. It had a public restaurant licence, which meant that all residents could drink 24 hours a day, and non-residents could have alcohol with their meal in the restaurant. Any guests of hotel residents could also drink 24-hours a day as long as all drinks were purchased by the resident. The intention was to enable any guests of residents or the owners to be able to purchase alcohol in the normal way and not to increase the drinking in the area. The application also included reference to entertainment so that the current situation could continue, i.e. people would be able to dance if they so wished, although it was not intended to encourage dancing on the premises.

- 245.8 Mr. Simmonds stated that the square itself was in the middle of Brighton and had a 24hr car park, and was in close proximity to the seafront and local night-clubs. It meant that people were likely to be leaving the area late at night and any additional people from the hotel would not make a significant impact on that. He did not believe that there was a likelihood of increased public nuisance/disorder and noted that there had been no objections from the responsible authorities.
- 245.9 The applicants stated that they provided a number of a local taxi firm for guests who were able to wait inside until their taxi arrived.
- 245.10 Panel Members queried whether it was the applicants' intention to enable people to come in off of the street to use the facilities and thereby drink into the night. Members also queried what the capacity was for the restaurant and bar area.
- 245.11 The applicants stated that they only intended to allow their own and/or residents guests to enter the premises. The bar area could only hold up to 35 people and it was not intended to increase the size of the area.
- 245.12 Mr. Gray noted that with a hotel licence, the hotel guests could bring in their own guests and drink and therefore queried the need to vary the licence.
- 245.13 Mr. Simmonds stated that the intention was to enable restaurant users to purchase drinks and for the guests of residents to do so, which they could not currently. He also noted that the front door had an access code on it and therefore people could not simply walk in off the street.
- 245.14 The Chair noted that there were no other questions and asked the various parties to sum up.
- 245.15 The Licensing Officer noted that there were a number of points in

the Part Q that would transfer into conditions and as such met the points of concern that had been raised.

245.16 Mr. Gray stated that there still had to be a concern over the impact of public disorder in what was a quiet area from midnight onwards and asked that consideration be given to this matter.

245.17 Mr. Simmonds stated that the hotel had a maximum capacity of 35 and it was likely that any guests or residents would be few in numbers. The owners had no intention to alter the character of the area and there was no evidence to suggest public nuisance or disorder was likely to result from approving the application. He therefore asked that the application be approved.

245.18 The Chair then adjourned the meeting at 14.20hrs and the Panel withdrew to consider its decision.

245.19 The Chair reconvened the meeting at 14.25hrs and informed the various parties of the Panel's decision.

245.20 **RESOLVED** – That the application for a variation for the premises licence already granted under “grandfather rights” for the Hotel Pelirocco, 9/10 Regency Square, Brighton be granted.

245.21 The Chair noted that the various points included in Part Q would be transferred into conditions on the licence and stated that the Panel felt these addressed the concerns regarding possible public nuisance.

245.22 The Legal Officer reminded the parties of their appeal rights to the Magistrates Court under the Licensing Act and that appeals had to be made within 21 days of written notification of the decision given at the hearing.

246. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – LOT 73

246.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a Premises Licence already granted under “grandfather rights” at Lot 73, 73A Western Road, Brighton (see Minute Book).

246.2 The Licensing Officer outlined the details of the application, which sought a variation of hours for the provision of alcohol and the provision of regulated entertainment. With the Chair's agreement, he also circulated a map showing the location of the premises and

a copy of "Part Q, Application to vary a premises licence under the Licensing Act 2003", which had been completed by the applicant.

- 246.3 The Licensing Officer noted that 8 representations from local residents had been received in respect of the negative impact of noise from extended opening hours and entertainment. He also stated that there had been representations from the Police and Environmental Health. These had subsequently been withdrawn following consultations and agreement to provide door supervisors, shatter-proof receptacles, a clear emergency call-out procedure and a noise limiting device set an agreed level.
- 246.4 The Chair queried whether there was an intention to have a half-hour wind-down period before the time of closing and the Licensing Officer confirmed this.
- 246.5 Mr. Byrne queried whether the noise abatement order remained in place.
- 246.6 The Licensing Officer confirmed that the order would remain in place until it had been complied with.
- 246.7 The Chair noted that there were no other questions for the Licensing Officer and therefore asked the interested parties to put forward their representations.
- 246.8 Mr. Byrne stated that his property shared a communal wall with the establishment and as such he had suffered from noise disturbance throughout. He could not only hear various things from the bar area but the noise tended to reverberate through the walls, thereby disturbing his sleep and quality of life. It no longer operated as a restaurant but had become a public bar with noise continuing beyond 23.30hrs and he did not want to suffer from this until 01.30hrs. Although he was the only resident present, he was aware that a number of others had made similar objections.
- 246.9 Panel Members referred to Mr. Byrne's letter and paragraph 1.3, which indicated that the establishment was to run as a restaurant/bar but that the restaurant was no longer operating. Members queried why this was the case and whether there was still a problem with the dumping and clearance of bottles.
- 246.10 Mr. Byrne stated that at the time of the present owner taking over the premises he and other residents had been led to believe that the intention was to run the restaurant, and that it would be a venue aimed at a particular clientele. However, this was not the case and it was now more a public bar. He also confirmed that the problem with the clearance of bottles had been dealt with.

- 246.11 Mr. Simmonds queried whether Mr. Byrne would still have an objection to the application if the noise problem were resolved.
- 246.12 Mr. Byrne stated that he would withdraw his objection if he could be satisfied that the noise problem would be addressed.
- 246.13 The Chair noted that there were no further questions and asked the applicant to put forward their representations.
- 246.14 Mr. Simmonds stated that he was representing Mr. Mackenzie and that at the time of taking over the establishment, it had been a Tai Restaurant. He had contacted the local residents to inform them of his intention to continue to operate a restaurant but to also run a bar within the premises. However, after a few months it became clear that the restaurant was not going to be a viable operation and he submitted an application to run the premises mainly as a bar. Food was still provided but not on a restaurant basis and the intention was for the premises to be open to a specific clientele, with customers being gained through word of mouth. It was not easily identifiable as a bar and there was no intention to change how it was operated, with music and occasional live music being played. The application referred to dance because of the need to cover any movement by customers that could be deemed as dance, in accordance with the new regulations. There was no desire for it to become a night-club and it was intended to have a clear wind-down period. Mr. Mackenzie was willing to work with Environmental Health officers to ensure that he met any noise regulations and to ensure that concerns of residents could be met in this respect. He was also willing to meet and discuss concerns with the residents to ensure that their worries could be accounted for wherever possible.
- 246.15 Members of the Panel sought clarification with regard to the problem of emptying bottles and their clearance and whether any sound-proofing had been undertaken. Panel Members also queried what action had been taken to address the problem of sound emanating through the adjoining wall.
- 246.16 Mr. Mackenzie confirmed that arrangements had been put in place to clear the empties and rubbish during the day, normally between 15.00 and 16.00hrs. He also stated that sound-proofing had been undertaken in consultation with the Environmental Health team and that discussions were taking place with regard to the problem of bass noise reverberating through the building. He also noted that some speakers had originally been placed on the adjoining wall and action was being taken to rectify this, which would hopefully reduce the problem of noise reverberation.

- 246.17 The Chair noted that there were no further questions and asked the various parties to sum-up.
- 246.18 The Licensing Officer stated that they had no further comments to make and that the application was before the Panel for consideration.
- 246.19 Mr. Byrne stated that as a business venture he was supportive of the application but he still held reservations about the noise levels and the impact to his quality of life.
- 246.20 Mr. Simmonds stated that his client was working with the Environmental Health Officer to address the concern about noise levels and had to meet the 90-day compliance order. He therefore hoped that the Panel would approve the application.
- 246.21 The Chair then adjourned the meeting at 14.55hrs and the Panel withdrew to consider its decision.
- 246.22 The Chair reconvened the meeting at 15.05hrs and informed the various parties of the Panel's decision.
- 246.23 **RESOLVED** – That the application for a variation to the licence for Lot 73, 73A Western Road, Hove as detailed in the report be granted with the following conditions:
- (i) The Licensee shall ensure that noise or vibration does not emanate from the premises as to cause a nuisance to nearby properties;
 - (ii) That a noise limiting device to control live and recorded music be installed to the satisfaction of the licensing authority;
 - (iii) That the design and location of the speaker system serving the premises be reviewed to the satisfaction of the licensing authority; and
 - (iv) That the existing sound insulation scheme for the premises be reviewed and where necessary additional sound insulation works be carried out to the satisfaction of the licensing authority.
- 246.24 **Reasons for conditions:** The Panel considered that the imposition of the above conditions was necessary for the promotion of one of the licensing objectives – the prevention of public nuisance.
- 246.25 The Legal Officer reminded the parties of their appeal rights to the Magistrates Court under the Licensing Act and that appeals had to be made within 21 days of written notification of the decision given at the hearing.

247. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – CLUB REVENGE

- 247.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a Premises Licence already granted under “grandfather rights” at the Club Revenge, Old Steine, Brighton (see Minute Book).
- 247.2 The Licensing Officer outlined the details of the application, which sought a variation of hours for the provision of alcohol, the removal of conditions relating to membership, the provision of late night refreshment and the extension of hours for regulated entertainment. With the Chair’s agreement, he also circulated a map showing the location of the premises and a copy of “Part Q, Application to vary a premises licence under the Licensing Act 2003”, which had been completed by the applicant.
- 247.3 The Licensing Officer noted that 2 representations had been received, one from a local resident and one from a business representative society, concerning the negative impact from extended opening hours, noise levels, and public nuisance/disorder. He also stated that there had been a representation from the Police, which had subsequently been withdrawn following agreement on various aspects.
- 247.4 The Chair noted that there were no questions for the Licensing Officer and that no interested parties were present. She therefore asked the applicant to put forward their representations.
- 247.5 The applicants’ representative informed the Panel that the premises was a well-established gay venue and stated that the application was being made following demand for extended opening hours etc. He noted that noise limiters were installed and sound-proofing had been undertaken, and that it was a sealed air-conditioned building. In respect of the concerns raised about noise levels, he suggested that it was likely that this came from nearby establishments in the vicinity. He also stated that customers were able to make use of the nearby taxi-rank and that door supervisors were employed following consultations with the Police. It was his clients’ intention to endeavour to ensure noise levels were controlled and that regular consultation with the Police took place.
- 247.6 The Panel Members noted that the written representations referred to problems of bass noise and queried whether it was felt that this could be attributed to the premises.
- 247.7 The applicant stated that the noise limiters had been set in conjunction with the Environmental Health team and he believed

that it was more likely to come from other nearby venues.

247.8 There being no further questions the Chair invited the Licensing Officer and the applicants to sum-up.

247.9 The Licensing Officer stated that he had no further comments but noted that measures had been agreed with the Police, which addressed concerns raised with regard to public disorder.

247.10 The applicants' representative stated that he had no further comments and asked that the application be approved.

247.11 The Chair sought the views of her fellow Panel Members and it was agreed that in light of the information provided, it was not necessary to withdraw from the meeting.

247.12 **RESOLVED** – That the application for a variation to the licence for Club Revenge, Old Steine, Brighton as detailed in the report and with the measures agreed with the Police incorporated into the Operating Schedule be granted.

247.13 The Legal Officer reminded the parties of their appeal rights to the Magistrates Court under the Licensing Act and that appeals had to be made within 21 days of written notification of the decision given at the hearing.

248. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – PRINCE ARTHUR

248.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a Premises Licence already granted under "grandfather rights" at the Prince Arthur, 38 Dean Street, Brighton (see Minute Book).

248.2 The Licensing Officer outlined the details of the application, which sought a variation of hours for the provision of alcohol, the removal of conditions relating to membership, the provision of late night refreshment and the extension of hours for regulated entertainment. With the Chair's agreement, he also circulated a map showing the location of the premises and a copy of "Part Q, Application to vary a premises licence under the Licensing Act 2003", which had been completed by the applicant.

248.3 The Licensing Officer noted that 13 representations had been received, concerning the negative impact from extended opening hours, noise levels, public nuisance and crime & disorder. He also stated that there were no representations from the Responsible Authorities.

- 248.4 The Chair noted that there were no questions for the Licensing Officer and therefore invited the interested parties to put forward their representations.
- 248.5 The interested parties stated that Dean Street consisted of Georgian terraced houses with the Prince Arthur being the only commercial premises. They were very happy with the pub itself and how it was being managed, but were concerned about the prospect of the extension in opening hours and the impact this would have on the quality of life for residents. Many of the residents commuted to work and had families and the later opening hours would inevitably mean disturbances later into the night as people left the premises. There was also a problem of music reverberating through the walls and even with sound-proofing it was likely to remain a problem. It was also felt that public disorder was likely, as there had been previous instances with cars and property being damaged, especially when a late licence had been granted. The interested parties also pointed out disturbance was caused by the emptying of bottles into bins once the pub had closed at night and this was going to be at an even later hour if the application was granted.
- 248.6 Panel Members queried whether the emptying of bottles took place every night and whether the noise problem related to music coming from the conservatory. Members also asked how often live music was played.
- 248.7 The interested parties stated that a DJ played once a week and that whilst music could be heard from the conservatory, it was felt that it could still reverberate from the bar area. They also stated that the emptying of bottles took place every night.
- 248.8 Mr. Hughes queried whether it was likely that the noise from people and litter could come from customers, especially a locally known gang, using or congregating nearby to the McDonalds restaurant.
- 248.9 The interested parties stated that they were not sure if customers from McDonalds caused litter or damage to property, but felt that the noise was attributable to the Prince Arthur.
- 248.10 The Chair noted that there were no further questions and invited the applicant to put forward their representations.
- 248.11 Mr. Hughes stated that he had been at the pub for 11 years and believed it was regarded as a community pub. He intended to continue to run it as such and was aware of the concerns raised. He therefore intended to ensure any live music ceased at 23.00hrs and that noise levels from recorded music were reduced from 23.30hrs. The emptying of bottles took place at the rear of the premises during

the day and bins were only put out once a week. He believed that the noise and general litter problem came from the McDonalds restaurant rather than the pub. He also felt that people used Dean Street as a cut through and it was likely that they caused disturbances on their way home etc rather than customers leaving the premises. He was aware that people tended to use the benches outside the front of the pub late at night and he did ask them to move on, but they tended to be from the local youth gang and it meant having to ring the police to get them to move on. Finally, he wanted the Prince Arthur to remain as a community pub and did not feel that it was a venue for young people and he did operate a no ID no serve policy.

- 248.12 Panel Members noted that the operating schedule referred to reducing music levels during the wind-down period and sought clarification that the volume would be reduced at 23.30hrs as stated. Members also queried what affect on the level business there would be if the Conservatory had to close at a set time and whether the relaying of music could be controlled in the conservatory. The Panel also asked if Mr. Hughes lived on the premises and whether it was possible to remove the benches from the front of the property.
- 248.13 Mr. Hughes confirmed that he lived at the premises and stated that he would be willing to clear the front benches of customers by 23.30hrs, but could not remove them and therefore other people could still use them late at night. The conservatory provided for a maximum of 26 people being seated and did equate to half of his business and had a separate speaker system, which relayed music or the weekly quiz from the bar area.
- 248.14 Panel Members queried whether the conservatory was double-glazed and had windows which could be opened.
- 248.15 Mr. Hughes stated that it was double-glazed and that usually during the summer months the rear doors would be kept open.
- 248.16 The Chair noted that there were no further questions and therefore asked the various parties to sum-up.
- 248.17 The Licensing Officer stated that he was aware that benches could be isolated from accessibility with the use of chains and that in respect of the conservatory the attenuation from glass was very poor and not something that could be easily addressed.
- 248.18 The interested parties stated that they were concerned about the increase in noise levels that would result from later opening hours

and an increase in the number of live music performances. They believed that the use of the front benches was a problem and that they encouraged people to congregate in the area late at night which led to disturbances and therefore felt that the application should not be granted.

248.19 Mr. Hughes stated that he was willing to seek to address the concerns raised and would ensure that the front benches were cleared by 23.30hrs.

248.20 The Chair then adjourned the meeting at 15.50pm and the Panel withdrew to consider its decision.

248.21 The Chair reconvened the meeting at 16.00hrs and informed the various parties of the Panel's decision.

248.22 **RESOLVED** – That the application for a variation to the licence for the Prince Arthur, 38 Dean Street, Brighton as detailed in the report be granted with the following conditions:

- (i) The Licensee shall ensure that the outside bench area is cleared and closed to patrons by 23.30hrs.
- (ii) The Licensee shall ensure that the doors to the conservatory are closed by 23.00hrs
- (iii) Recorded and amplified music shall be discontinued at 23.30hrs.

248.23 **Reasons for conditions:** The Panel considered that the imposition of the above conditions was necessary for the promotion of one of the licensing objectives – the prevention of public nuisance.

248.24 The Chair also stated that the Panel felt that, in the interests of the neighbours and the premises itself, the applicant should look at ways of isolating the benches from use by the general public after they had been cleared at night.

248.25 The Legal Officer reminded the parties of their appeal rights to the Magistrates Court under the Licensing Act and that appeals had to be made within 21 days of written notification of the decision given at the hearing.

The meeting concluded at 16.05pm

Signed

Chair

Dated this

day of

2005