

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

10.00am 8 DECEMBER 2020

VIRTUAL

MINUTES

Present: Councillors: Deane (Chair), Appich and Fowler

Officers: Sarah Cornell, Senior Licensing Officer, Rebecca Sidell, Lawyer and Penny Jennings, Democratic Services Officer

Officers:

PART ONE

34 TO APPOINT A CHAIR FOR THE MEETING

34.1 Councillor Deane was appointed Chair for the meeting.

35 PROCEDURAL BUSINESS

35a Declaration of Substitutes

35.1 There were none.

35b Declarations of Interest

35.2 There were none.

35c Exclusion of the Press and Public

35.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

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

36 MONTPELIER INN LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

36.2 Before proceeding to the formal business of the meeting the Chair, Councillor Deane welcomed all present and explained the framework and process which the meeting would follow, the running order for the meeting and asked those who were present to introduce themselves. The following were in attendance:

Police Representatives

Peter Savill
Claire Abdelkader
Mark Thorogood

Statutory Representatives

Annie Sparks
Alun Cance
Donna Lynsdale

Ward Councillor(s)

Councillor Phillips also attending on behalf of Councillor Druitt her fellow Ward Councillor

Objectors

Shelley Tiltman and her partner Joanne Sturgess.
Clare Mackie
Mike Goldstone

In support

Tony Machacek

Applicants Representatives

Richard Taylor, solicitor acting on behalf of freehold owner
Paul Wright, Enterprise Inns

36.2 Following these introductions, the Panel considered a report of the Interim Executive Director for Housing Neighbourhoods and Communities requesting that they determine a summary review application made by Sussex Police in regard to the premises licence issued for the Montpelier Inn, 7 -8 Montpelier Place, Brighton BN1 3BF.

Presentation by the Licensing Officer

- 36.3 The Senior Licensing Officer, Sarah Cornell, explained that the Panel were now required to determine further action to be taken as appropriate following the decision taken at the interim steps meeting which had taken place on 13 November 2020. Sixteen representations had been received from local residents, local Councillors., the Licensing Team, Environmental Protection and a business on the grounds of the Prevention of Crime & Disorder, Prevention of Public Nuisance, Public Safety and Protection of Children from Harm supporting the application submitted by Brighton and Hove Police seeking the revocation of the licence. Two representations had been received from local residents supporting the premises on the grounds of Prevention of Crime & Disorder.

At this hearing the licensing authority must:

Consider the application made in accordance with Sections 53A-53D

Consider any relevant representations

Take such steps (if any) as are considered appropriate for the promotion of the Licensing objectives. These steps were:

- 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.

for these purposes the conditions of a premises licence were considered to be modified if any of them were altered, omitted or any new condition was added. It might provide that the modification or exclusion had effect for a specified period not exceeding 3months. The determination of the review application and interim steps review needed to be made at the conclusion of the hearing.

- 36.4 In conducting the review under this section, the relevant licensing authority also needed to consider:
- (a) whether the interim steps are appropriate for the promotion of the licensing objectives;
 - (b) consider any relevant representations; and
 - (c) determine whether to withdraw or modify interim steps taken.

Submission on behalf of the Police

- 36.3 Peter Savill the legal representative on behalf of the Police explained that this summary review had been brought by Sussex Police on the basis that the premises were associated with both serious crime and serious disorder. The incident involving serious crime and disorder took place on the night of the 4th November 2020. steps have been taken to suspend the premises licence pending this review hearing.
- 36.4 Since the application for this summary review, the then licence holders, Rock & Roller Coaster Ltd, had been removed from the premises by the freeholder, EI Group, who are now owned by the Stonegate Pub Company. By way of an interim authority application the premises licence was now in the hands of EI/Stonegate (the licence holder). The new licence holder had met with the police, licensing authority and local residents to discuss and put forward proposals for the retention of the licence. A set of measures

and conditions had been circulated to the parties. These proposals included a further 3 month closure/suspension, removal of the DPS, rebranding, reduction of hours and a raft of conditions including removal of live music, are agreed by the police save for the provision for door staff which the police seek to impose earlier in the evening on Fridays and Saturdays.

Submission on Behalf of Licensing Authority

- 36.5 The Regulatory Services Manager, Annie Sparks, referred to discussions which had taken place with the new premises licence holders, the suggested conditions put forward and any areas of concern which remained. During the course of the discussions the environmental protection officer put forward further conditions regarding the use of outside areas, smoking restrictions and soundproofing in the basement. These were accepted by licence holder.

Submission on Behalf of Local Ward Councillors

- 36.6 Councillor Phillips spoke setting out her objections and concerns and those of her fellow Ward Councillor, Councillor Druitt. They shared the major concerns of local residents referring to the catalogue of behaviours and lapses in the manner in which the premises had been run over many months which had culminated in the events in November which had led to the summary review. Notwithstanding the changes which had taken place recently significant concerns remained not least in respect of the tardy manner in which the freeholders had had conducted themselves. Notwithstanding the conditions now put forward they remained of the view that the licence should be revoked as based on their previous experience and that of neighbouring residents they had no confidence that improvements would be sustained.

Submission by Neighbouring Objectors

- 36.7 Ms Tiltman, Ms Sturgess, Ms Mackie and Mr Goldstone detailed the catalogue of anti-social and unneighbourly behaviour which neighbouring residents had suffered over many months. Ms Tiltman and Ms Sturgess had been particularly negatively affected as their property directly abutted the premises and as both worked from home and had suffered significant disruption during the day as well as into the evening.
- 36.8 Local residents and the Ward Councillors did not accept this proposal in its present form and largely seek revocation of the licence due to their experience of the way in which the premises had operated to undermine the licensing objectives notably the prevention of public nuisance by playing excessively loud music, noise of people spilling out of the premises into the early hours, and anti-social behaviour. They had no faith in the new licence holders and were very concerned that the premises would revert back to being a problem premises in the future. If the licence was to be retained they wanted it to trade for reduced hours in line with the Matrix in the policy.

Submission in Support of the Premises

- 36.9 Mr Machachek spoke in support of the premises stating that whilst acknowledging the problems which had arisen recently overall the premises had generally been well run in

the past and that in his view with the correct input it could be again. He considered that with the right input the premises could be a valued Local community resource.

Submission on Behalf of the Premises Licence Holders

36.10 Mr Taylor spoke on behalf of the applicants outlining the steps that had been in put into place to address the serious issues which had arisen. It was fully acknowledged that these were very serious, the premises freeholders were anxious to ensure that they were addressed in a proper manner going forward. The freeholders were anxious to behave as a good neighbour and to provide a valued local resource which was family friendly and to that end had agreed to meet a number of additional conditions which had been requested including those put forward by Environmental Health.

36.11 Members of the Panel asked in depth and detailed questions of Mr Taylor and Mr Wright to seek to ascertain actions taken and proposed in order to address the very serious lapses which had occurred at the premises.

Closing Submissions

36.12 Once the point had been reached when no further issues were raised and following the closing submission by the Licensing Officer each of the other parties gave their closing submissions re-iterating the points that they had raised during the course of the meeting. The Panel then deliberated on the matter and made their determination.

The Decision

36.13 The Chair stated that the Panel had read all of the submitted papers with great care and had listened to all that had been said by those who had addressed the hearing. The Panel had considered this application for summary review with accompanying certificate, and further representations and supporting information from both the police as applicant for the review and the premises licence holder. The relevant representations have also been considered. The panel have had regard to the S182 Guidance and the Council's Statement of Licensing Policy. The summary review had been brought by Sussex Police on the basis that the premises was associated with both serious crime and serious disorder. The incident involving serious crime and disorder had taken place on the night of the 4 November 2020. Full details of this incident were in the papers before them. Interim steps had been taken to suspend the premises licence pending this review hearing. Sixteen relevant representations had been received from local residents, local councillors, the licensing team environmental protection and a business. 2 representations have been received supporting the premises.

36.14 Since the application for this summary review, the then licence holders, Rock & Roller Coaster Ltd, had been removed from the premises by the freeholder, EI Group, who were now owned by the Stonegate Pub Company. By way of an interim authority application the premises licence was now in the hands of EI/Stonegate (the licence holder). The new licence holder had met with the police, licensing authority and local residents to discuss and put forward proposals for the retention of the licence. A set of proposed measures and conditions had been circulated to the parties. These proposals included a further 3 month closure/suspension, removal of the DPS, rebranding, reduction of hours and a raft of conditions including removal of live music, These had

been agreed by the police save for the provision for door staff which the police wished to impose earlier in the evening on Fridays and Saturdays.

- 36.15 The local residents and ward Councillor did not accept this proposal in its present form and largely wanted revocation of the licence due to their experience of the way in which the premises had operated to undermine the licensing objectives notably the prevention of public nuisance by playing excessively loud music, noise of people spilling out of the premises into the early hours, and anti-social behaviour. They had no faith in the new licence holders and were concerned the premises would revert back to being a problem premises in the future. If the licence was retained they called (inter alia) for reduced hours in line with the Matrix in the policy. The environmental protection officer had put forward further conditions regarding the use of outside areas, smoking restrictions and soundproofing in the basement. The licence holder has accepted these.
- 36.16 The Panel must take such statutory steps under the Licensing Act 2003 (Section 53C) in response to the review as were appropriate to promote the licensing objectives. The panel had given careful consideration to all the options open to it. The panel had seriously considered revocation of the licence. The premises have been associated with the most serious crime and disorder culminating in the events of the 4 November. There had been a complete failure of management and local residents have experienced serious public nuisance and crime and disorder emanating from the premises. However, the panel also needed to consider the significant change in circumstances which had occurred since the application for the summary review was brought. The new licence holders were not connected with the previous management and had put forward proposals which largely met the requirements of the police. Further measures had been canvassed with them today some of which have been agreed. The Panel had decided on balance that with further tougher measures and conditions applied to the licence, the licensing objectives could be promoted and a clear break with the past achieved.
- 36.17 The panel had therefore approved that the following action be taken. In terms of the hours of operation of the premises, whilst this was not a new application, the panel recognised that many of the problems with the premises and disturbance to residents had been caused by later hours. In this sensitive residential area and given the gravity of what had happened, it was considered appropriate for all licensable activities (save for late night refreshment which shall be to 23:30) on all days to cease at 23:00 hours with closure of the premises at 23:30. There would be no non-standard timings such as bank holidays or New Years' Eve. The Panel endorsed the conditions suggested by Environmental protection and these are produced below. We would add that there should be no vertical drinking in the outside area for the prevention of public nuisance. In view of the previous failure of management and lack of effective communication with local residents the panel impose a condition that the (new)management of the premise must schedule at least quarterly meetings with local residents and their representatives to be invited to attend to discuss issues relating to the premises. Furthermore, the management must make a direct contact telephone number available to local residents and their representatives. There would be a 3 month suspension of the licence to commence when this determination took effect. The DPS was to be removed. Please see below for the full list of measures incorporating the measures and conditions offered and circulated by the licence holder as amended:

Minimum period of further closure (suspension) of 3 months from the coming into effect of this determination

1. The removal of the DPS

Conditions:

2. Ei Group Ltd will retain the premises licence for a minimum of 12 months running from the date that the premises reopen
3. The premises will be renamed and the offer repositioned
4. Live music is to be removed as a licensable activity
5. The licensed hours are to be reduced
6. The premises will not reopen until a DPS acceptable to the police (and agreed with the police beforehand) is identified and the licence varied to specify that individual as DPS submitted
7. All conditions in Annex 2 are to be deleted and replaced with the conditions below
8. A new condition is to be imposed on review and specified to have effect at all times (s177A(3) are to be imposed
9. A condition in Annex 3 is to be amended whilst those that specify the hours are to be deleted

New licensed hours

Alcohol sales

Monday to Saturday	10.00 – 2300
Sunday	11.00 – 2300

Films, recorded music, indoor sporting events, recorded music, anything of a similar description

Monday to Saturday	10.00 – 2300
Sunday	11.00 – 2300

Late night refreshment

Monday to Sunday	10.00 – 2330
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Opening hours

Monday to Saturday	10.00 – 2330
Sunday	11.00 – 2330

Proposed new conditions to replace those in Annex 2

1. Authorised staff employed by Sussex Police in the role of licensing officer shall have the right of access to the licensed premises during hours of operation for the purpose of inspection of the premises and premises records in order to ensure the promotion of the licensing objectives.
2. (a) Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.
(b) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
(c) CCTV footage will be stored for a minimum of 31 days
(d) The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.

- (e) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
- (f) Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.
- (g) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
- (h) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.
3. (a) An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week.
- (b) The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence.
- (c) Any refusals made for alcohol service e.g. underage, will also be recorded (either in electronic or written form) and feedback given to staff as relevant. The log will be kept for a minimum of twenty four (24) months.
4. SIA registered door staff will operate at the premises as follows:
- (a) On Fridays, and Saturdays, a minimum of one (1) SIA registered door staff will operate at the premises from 19:00hrs with an additional one (1) from 21:00hrs until closed and the venue and immediate outside area has completely cleared of customers.
- (b) The SIA registered door staff shall be employed by a firm which is accredited by the Brighton Business Crime Reduction Partnership (BCRP) or similar organisation approved by Sussex Police should the BCRP not be in existence.
- (c) SIA licensed door supervisors shall be employed on any other occasions when a requirement is identified by the licence holder's written risk assessment or requested by Sussex Police in writing at least 48 hours in advance. The written risk assessment will be reviewed at least once every calendar year. The written risk assessment will take into account information or guidance offered by the police, and also taking into account busy periods such as Bank Holidays, Season Variations and other City Centre Events e.g. Pride, **and any televised sports events to be shown at the premises.** The written risk assessment will be available on the premises for inspection by police and authorised officers of the Licensing Authority.
- (d) At all times SIA door supervisors are on duty at least one will be in possession of "Body Worn Video" BWV. The BWV will have the ability to record, and any recordings will be kept for a minimum of 31 days and made available to the Sussex Police upon request. Should any BWV break or otherwise become inoperable, it will be replaced within 24hrs.
5. At all times the premises is open to the public, the management will contract the back-up services of an approved mobile support unit (MSU) 24 hours a day, with a minimum of 2 SIA registered Door Supervisors operating from it with at least one in possession of "Body Worn Video". A copy of the MSU contract will be retained at the premises and

made available for immediate inspection upon request by Sussex Police or Council Officials. The MSU will be accredited by the Brighton Business Crime Reduction Partnership (BCRP) or other similar organisation approved by Sussex Police should the BCRP not be in existence.

6. The premises will become a member of the Business Crime Reduction Partnership or similar scheme approved by the Licensing Authority. The scheme must operate, subject to local coverage, radios and additionally an exclusion/banning scheme of named individuals within both the day and night time economy.
7. The premises shall have in place and operate a zero tolerance policy with regard to the use/possession of controlled drugs and psychoactive substances and advertise the same within the premises on posters and similar means. This policy shall specifically include but not be limited to
 - i. Searching practices upon entry
 - ii. Dealing with patrons suspected of using drugs on the premises
 - iii. Scrutiny of spaces including toilets or outside areas
 - iv. Staff training regarding identification of suspicious activity and what action to take
 - v. The handling of items suspected to be illegal drugs or psychoactive substances
 - vi. Steps taken to discourage and disrupt drug use on the premises

A copy of the policy to be retained on the premises and made available for immediate inspection upon request by Sussex Police.

8. Any illegal drugs seized will be stored in a secure 'drugs box' and periodically the management will request the police to come and remove all drugs in the 'drugs box' for destruction. All drugs will be in separate clear bags and labelled stating date, time and location that drugs were found
9. In the event a person is found on the premises actively or believed to be dealing in drugs, Police will be called and if practicable and safe to do so, the individual detained until Police arrival.
10. Individuals found to have drugs in their possession will be banned from the premises.
11. The management will permit the police to use drugs detection process e.g. and 'ION Track' machine or similar device inside the premises to detect the illegal use of drugs and will sign a Police consent form
12. A dispersal policy will be operated to ensure that customers leave the premises quietly and without causing disturbance to neighbours. A copy shall be kept at the premises at all times and shall be made available for immediate inspection by police or an authorised officer of the Council.
- 13.) The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:

*The lawful selling of age restricted products

*Refusing the sale of alcohol to a person who is drunk

*Refusing the sale of alcohol for consumption off the premises to people who may have alcohol dependency issues

Drugs policies

(b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 8 weeks, with the date and time of the verbal reinforcement/refresher training documented.

(c) All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.

14. The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.
15. Signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises.
16. No children under 16 will be allowed in the premises at any time unless accompanied by an appropriate adult.

Conditions imposed on review and to have effect at all times – s177A (4) Licensing Act 2003

1. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
2. No live music will be permitted on the premises
3. The rear outdoor area is not to be used by customers.
4. The front outdoor area is to be closed to customers for drinking after 21:30 and the outdoor seating shall be put beyond use. There shall be no vertical drinking in this area. After 21:30 the number of smokers in this area shall be limited to 5 at any one time and no drinks shall be taken out when smoking.
5. There shall be no amplified music in the front outdoor area.
6. A soundproofing scheme shall be installed in the basement toilet area of the premises.
7. The management of the premises must schedule at least quarterly meetings with local residents and their representatives who shall be invited to attend to discuss issues relating to the premises.
8. The management must make a direct contact telephone number or numbers available to local residents and their representatives to be used in the event of problems occurring at the premises.

Proposed changes to conditions in Annex 3

Conditions 1 to 4 inclusive are to be deleted

Existing condition 6 which reads,

The external area shall be closed and cleared of patrons by 23.30.

Is to be amended to read as in 4 above.

The other conditions on the current licence at Annex 3 namely relating to noise and vibration and excessive noise shall apply and have effect as per S177A (3) and (4)

The panel consider the above steps and conditions are an appropriate and proportionate response to this review.

In terms of the interim steps, namely the current suspension of the licence, the panel has decided that this shall remain in place until the decision made on this review comes into effect – i.e. for 21 days assuming no appeal is brought, or if such appeal is brought until the appeal is disposed of. The panel consider that this is appropriate to promote the licensing objectives and protect the current position.

36.18 **RESOLVED** – That the decision as set out above has been made in respect of the Montpelier Inn, 7 – 8 Montpelier Place, Brighton, BN1 3BF

Note: The Legal Adviser to the Panel advised that the applicants would receive notification of the Panel's decision in writing with details of their appeal rights attached.

The meeting concluded at 3.45pm

Signed

Chair

Dated this

day of