

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

9.30AM – 26 JULY 2005

HOVE TOWN HALL

MINUTES

Present: Councillor Mrs Simson (Chair), Councillors G Theobald and Tonks.

Also present: Miss. Woodley, Legal Officer, Mr. Giddings, Licensing Officer and Mr. Wall, Clerk to the Panel.

PART ONE

25. ELECTION OF CHAIR

25.1 **RESOLVED** – That Councillor Mrs. Simson be elected Chair for the meeting.

26. PROCEDURAL BUSINESS

26A. Declarations of Substitutes

26.1 There were no declarations of substitutes.

26B. Declarations of Interest

26.2 There were none.

26C. Exclusion of Press and Public

26.3 The Committee 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.

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

27. APPLICATION FOR A VARIATION TO A PREMISES LICENCE AT THE CROWN

- 27.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a Premises Licence at the Crown Inn, 24 Grafton Street, Brighton, BN2 1AQ (for copy see Minute Book).
- 27.2 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 and the playing of recorded music. With the Chair's agreement, he also circulated a map showing the location of the premises and a copy of "Part B, Application to vary a premises licence under the Licensing Act 2003", which had been completed by the applicant.
- 27.3 The Licensing Officer noted that that one objection had been received from the Kingscliffe Society, which did not refer to the proposed premises other than to raise objection based on the cumulative effect of a number of premises in the area being granted extensions. He stated that the Licensing Guidance did not refer to the issue of a cumulative effect, but rather stated that each application should be considered on its own merits. However, there were other mechanisms, which could be used to take into account the cumulative effect should the local authority, local residents and/or responsible authorities choose to make use of them.
- 27.4 The Licensing Officer also noted that there were no representations from the Responsible Authorities in respect of the application.
- 27.5 The Chair noted that no one was present from the Kingscliffe Society and in having regard to the Licensing Regulations, queried what the Society's position was in relation to making an objection.
- 27.6 The Legal Adviser informed the Panel that in her view it was not clear from the paperwork the Kingscliffe Society was an interested party for the purposes of the Licensing Act 2003.
- 27.7 The applicant's representative, Mr. Phipps, suggested that in accordance with the statutory guidance, the benefit of the doubt should be given to such groups/societies as an interested party. He suggested that the Panel might want to acknowledge the representation in view of the element of doubt, albeit that he would ask for it to be discounted as part of his representation.
- 27.8 The Panel Members agreed that the society should be treated as an interested party.
- 27.9 The Chair noted that the Panel had no questions for the Licensing

Officer and in the absence of any interested parties asked the applicant to make their representations.

- 27.10 Mr. Phipps stated that he was representing the applicant and that the variation being sought was as outlined in the application form, i.e. an extension in opening hours, provision for the sale of alcohol and the use of recorded music. He urged the Panel to discount the representations of the Kingscliffe Society in view of the lack of any specific mention therein of the Crown.
- 27.11 Panel Members queried whether the applicant was aware of any complaints in relation to the running of the premises.
- 27.12 Mr. Phipps stated that he was not aware of any complaints.
- 27.13 The Chair asked for closing remarks.
- 27.14 The Licensing Officer stated that the application complied with the Council's licensing policy.
- 27.15 There were no other remarks.

RESOLVED – That a variation to the premises licence already granted under "grandfather rights" as detailed in the report be granted.

28. APPLICATION FOR A VARIATION TO A PREMISES LICENCE AT THE CROWN AND ANCHOR

- 28.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a premises licence at the Crown and Anchor, 213 Preston Road, Brighton, BN1 6SA (for copy see Minute Book).
- 28.2 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, the performance of live music and the playing of recorded music. With the Chair's agreement, he also circulated a map showing the location of the premises and a copy of "Part B, Application to vary a premises licence under the Licensing Act 2003", which had been completed by the applicant.
- 28.3 The Licensing Officer noted that two representations had been made including the submission of a petition, with the objections relating to an increase in noise levels in the evenings both within the premises and the outside seating area and traffic issues in terms of noise and parking restrictions. He noted that Environmental Health had no recent records of any noise related issues and that there were no objections from the Responsible Authorities. He also stated that he had a number of points,

- which required clarification from the applicant and asked that these be circulated and a response given during the applicant's submission.
- 28.4 The Chair agreed to the circulation of the points in question and copies of these were given to all parties.
- 28.5 The Panel Members queried whether there had been any complaints registered with regard to the running of the premises.
- 28.6 The Licensing Officer stated that there were none in relation to noise.
- 28.7 Mr. Massey, (Interested Party), queried whether the records of noise complaints went as far back as 2002, as he was aware of such a complaint and a request for a noise record to be kept.
- 28.8 The Licensing Officer referred to paragraph 3.3 of the report and stated that the complaint could relate to an earlier incidence when the premises were with another landlord.
- 28.9 The Chair then invited the interested parties to put forward their representations.
- 28.10 Mr. Massey stated that the outside area to the premises was a small car park, which had had seating, added to it to enable customers to sit outside. This had added to the noise levels being endured with people remaining outside late into the evening. He stated that the petition, which had been submitted and signed by around forty people, showed the extent of opposition to the application. He noted that Preston Village was a conservation area and not in the town centre and therefore there was a need to recognise the difference and maintain the area's identity. He also believed that both Councillor Mrs. Drake and a neighbour had written in opposing the application. He was also concerned about the fact that the bins would emptied later into the night/early morning and with deliveries taking place before 7.00am, residents were likely to have a greater disturbance than was the current situation. Finally, he also raised concern over the lack of car parking facilities, which culminated in a degree of illegal parking and traffic congestion.
- 28.11 Ms. Cullen stated that the noise levels were already intolerable with her property being only 25 feet from the premises and even nearer to the outside seating. She noted that the car park was regularly used as a general car park since the bollards had been removed, and by people returning home from other venues late at night as somewhere to sit and chat etc. She stated that the side door was regularly left open during the evening when music was being played and that having expressed her concerns to the landlord over the noise levels these had been largely ignored.

- 28.12 Panel Members queried whether any complaints had been made to the Council during the last 12 months and how long the issue with the outside area had existed.
- 28.13 Ms. Cullen stated that the car park issue had been around for the last 18 months and that whilst she accepted there may be odd functions throughout the year which would impose on the neighbouring properties, she did not feel it should be a permanent imposition. She believed that the noise issue had devalued her own home and the introduction of live music would only add to her discomfort.
- 28.14 The Panel Members queried whether it was felt that the premises served a local clientele or whether they came from a wider area.
- 28.15 Mr. Massey stated that it was not regarded as a local pub and was used more by people coming from outside the area.
- 28.16 There were no questions from the applicant's representative.
- 28.17 The Chair asked the applicant to make their representations.
- 28.18 Mr. Phipps, who was representing the applicant informed the Panel that having regard to the concerns raised by the interested parties, the applicant was willing for the Panel to consider the following conditions, should it be minded to grant the variation:-
- (i) Live music to be limited to no more than two performers per night on no more than 12 separate occasions in each year and all live music ending at 23.00hrs;
 - (ii) The outside area to be closed and cleared of patrons by 23.00hrs every night;
 - (iii) No bottles or other rubbish to be placed in outside bins after 23.30hrs each night;
 - (iv) All doors to the premises to be closed at 23.00hrs except to allow for access and egress;
 - (v) All music or noise not to be audible by the nearest noise sensitive premises after 23.00hrs.
- 28.19 Mr. Phipps referred to the application and stated that the intention was to have an additional hour added to the opening times with half-an-hour for drinking-up time. The food element of the premises was a significant aspect of the business and people came specifically for that, hence the desire to have the extension to opening times. With regard

to the removal of the bollards, this was actioned following discussions with residents, as they had resulted in vehicles being damaged, although their reinstatement would be reconsidered should demand require that.

28.20 With regard to the points for clarification, Mr. Phipps stated that the hoped the proposed conditions met these and asked for an adjournment so that he had his client could consider any further comment they wished to make.

28.21 The Chair then adjourned the meeting at 10.10am.

28.22 The meeting was reconvened at 10.15am.

28.23 Mr. Phipps stated that in having considered the points raised by the Licensing Officer, measures would be put in place to ensure staff encouraged patrons to leave the premises quietly. The outside furniture would also be turned over to discourage use, appropriate signage would be put up in accordance with the authority's policy and discussions would be held with the breweries regarding early morning deliveries.

28.24 Members of the Panel queried whether layout of the premises meant that the main door opened onto the London Road and whether it was felt that the majority of the clientele came from outside the locality. The Panel also asked what measures would be used to ensure any conditions relating to noise were abided by.

28.25 Mr. Phipps confirmed that the main door opened onto the London Road and that the applicant would seek to ensure that the car park was used correctly. With regard to any conditions that may be set, he noted that they would have to be met otherwise there would be a breach of licence and various levels of action open to the authority.

28.26 Ms. Cullen then queried what had led to the bollards being removed, as they had not been party to any discussions about their removal.

28.27 The applicant stated that various people, who used the car park, including local business people had asked if the bollards could be removed and their requests had been acted on.

28.28 There being no other questions the Chair asked the various parties to sum up.

28.29 The Licensing Officer referred to the Council's Licensing Policy and stated that there were a number of points which had direct relevance to the application as outlined in the report. He therefore suggested that the proposed conditions from the applicant should be added to the

licence if the Panel was minded to grant the application.

28.30 Mr. Massey stated that there was strong local opposition to any increase in opening hours or changes to the operation of the pub and therefore urged the Panel to retain the current licence conditions.

28.31 Mr. Phipps referred to paragraph 6.10 of the Licensing Guidance,

“Licensing authorities should also not seek to engineer staggered closing times, by setting quotas for particular closing times, for example, by allocating closing times of 11.00pm, 12midnight, 1.00am, 2.00am, 3.00am etc. to specific premises. In the Government’s view, this would only serve to replace the current peaks of disorder and disturbance after 11.00pm and after 2.00am with a series of smaller peaks, minimising any potential improvement in the prevention of crime and disorder or public nuisance and would not be necessary to promote the licensing objectives. The general principle should be to support later opening so that customers leave for natural reasons slowly over a longer period. This prevents any artificial concentrations. At present, permitted hours for ordinary public houses are set at times that research evidence suggests are artificially early, causing a high proportion of customers to remain until the fixed closing time. The benefit of later closing times, even if many are similar, is that customers will leave for a variety of reasons at a variety of times. For example, if all the public houses in a single street could open until 3.00am, this would allow customers a far longer period than now to leave and disperse from that area.”

He suggested that in taking the aims of this into account and by applying the proposed conditions, the Panel should be minded to grant the variation. He accepted that there were some anxieties held by residents, but hoped these would be alleviated and noted that there had been no objections raised by the Responsible Authorities.

28.32 The Chair then adjourned the meeting at 10.30am and the Panel retired to consider their decision.

28.33 The Chair reconvened the meeting at 10.50am and informed the various parties of the Panel’s decision.

RESOLVED – That the application for a variation to the licence for The Crown & Anchor as detailed in the report be granted with the following conditions:-

- (i) Live music to be limited to no more than two performers per night on no more than 12 separate occasions per annum and all live music ending at 23.00hrs;
- (ii) All music or noise not to be audible at the nearest noise sensitive

premises after 23.00hrs.

- (iii) No bottles or rubbish to be placed in outside bins between 23.30hrs and 07.00hrs each day;
- (iv) All doors to the premises to be closed at 23.00hrs except to allow for access and egress;
- (v) The outside area to be cleared of patrons by 23.00hrs every night and the seating/tables turned up to discourage use;
- (vi) Appropriate signage to be displayed at all exits and in the outside area requesting patrons to respect the needs of local residents and to leave quietly.

28.34 **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.

28.35 The Legal Officer reminded the parties that they had the right of appeal to the Magistrates Court within 21 days of the Panel's meeting date and that the representatives should consider seeking independent legal advice. She also pointed out that there were other mechanisms open to the representatives in terms of seeking a review of the licence should they wish to do so.

29. APPLICATION FOR A VARIATION TO A PREMISES LICENCE AT THE I GO INN

29.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation to a premises licence at the I Go Inn, 8-9 Rock Street, Brighton, BN2 1NF (for copy see Minute Book).

29.2 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, the performance of live music and the playing of recorded music. With the Chair's agreement, he also circulated a map showing the location of the premises and a copy of "Part B, Application to vary a premises licence under the Licensing Act 2003", which had been completed by the applicant.

29.3 The Licensing Officer noted that a number of representations had been made, with the objections relating to an increase in noise levels in the evenings both within the premises and outside and in relation to disturbances and vandalism. He noted that Environmental Health had no recent records of any noise related issues since 2002 and that there were no objections from the Responsible Authorities. He also stated that he had some points, which required clarification from the applicant and asked that these be circulated and a response given during the

- applicant's submission.
- 29.4 The Chair agreed to the circulation of the points in question and copies of these were given to all parties.
- 29.5 There were no questions from the various parties and the Chair asked the representatives to put forward their concerns.
- 29.6 The representatives stated that it was primarily a residential area made of 4-storey buildings, which attributed to the reverberation of noise throughout the vicinity. It was also a conservation area with Grade 1 Listed buildings, which prevented them from having any soundproofing such as double glazing. The premises themselves did not have any soundproofing and the later opening hours would have a direct impact on the quality of life of the residents. The representatives believed that the venue was not appropriate for live music and expressed concerns over the recent change in clientele, which had resulted in it being permanently closed since the 16th July.
- 29.7 The representatives also referred to a letter from the Police, which provided details of 999 calls and police attendance at the premises as a result. The letter was circulated to the Panel and the applicant with the Chair's agreement.
- 29.8 It was suggested that notices should be displayed asking patrons to leave quietly and given the record of disturbances security staff should also be present, particularly on a Friday and Saturday night to encourage people to move on.
- 29.9 The Panel Members queried whether it would help if there was a requirement for windows and doors to be closed during the playing of music and/or live performances. Members also queried whether there was any problem with regard to the use of the outside seating area.
- 29.10 The representatives stated that they did not feel the closure of windows and doors would be of any benefit in terms of reducing noise levels and whilst the outside seating area was currently used a great deal, they would not want it being used late into the evening.
- 29.11 There were no questions from the applicant and the Chair asked the applicant to put forward their reasons for the variation.
- 29.12 Mr. Phipps stated that the variation sought an additional hour for Fridays & Saturdays, half-an-hour on Sundays and an extra hour for the bank holidays and public holiday periods. He referred to the Licensing Guidance and noted that the objective was not to create zones but rather to enable establishments to cater for their own localities. In this respect the application did not seek a significant change in hours but

recognised the position of the premises within its own area. He acknowledged that the premises had been closed and stated that the owners had decided to undertake a complete refurbishment with a view to targeting a different clientele.

29.13 In having regard to the concerns raised, Mr. Phipps suggested that the following conditions could be attached to the licence, in order to enable the variation to be granted;

- (i) Live music to be limited to no more than two performers per night on no more than 12 separate occasions per annum and all live music including Karaoke ending at 23.00hrs;
- (ii) The outside garden area to be closed and cleared of patrons by 23.00hrs every night;
- (iii) All doors to the premises to be closed at 23.00hrs except to allow for access and egress;
- (iv) All music or noise not to be audible at the nearest noise sensitive premises after 23.00hrs;
- (v) Notices to be displayed requesting patrons leave quietly and orderly in line with the authority's policy for such notices.

29.14 He believed such conditions would go a long way to meeting the concerns expressed by the representatives and noted that the Licensing Policy was not primarily to be used for the control of unruly behaviour outside licensed premises.

29.15 The Panel Members queried whether the use of door supervisors would be considered.

29.16 Mr. Phipps stated that door supervisors had been used on occasion and consideration would be given to their use for future events.

29.17 The representatives queried whether the side gate giving access to the garden would be kept locked to prevent children from gaining access other than through the premises. They also queried whether the refurbishment would include noise insulation and how often door supervisors would be used.

29.18 Mr. Phipps stated that action would be taken to ensure access to the garden area was through the premises only and that he could not comment on the nature of the refurbishment. However, he noted that should the proposed condition relating to noise levels be imposed, the licensee risked a breach of the licence should there be audible noise after the 11.00hrs deadline. The applicant was willing to use door staff

as and when it was felt appropriate to do so.

29.19 The Chair then asked the various parties to sum up.

29.20 The Licensing Officer suggested that should the Panel be minded to grant the variation it would be helpful to attach the proposed conditions.

29.21 The representatives stated that they felt there was a serious problem in relation to noise levels and disturbances and therefore the variation should not be granted until an improvement was shown in the running of the premises.

29.22 Mr. Phipps stated that the applicant was willing to include a condition in relation to not emptying bottles etc after 23.30hrs. He believed the applicant and the company had shown a desire to redress the problems mentioned by closing the premises and investing in its refurbishment etc. He also suggested that the authority's licensing policy reflected the objectives of the actual regulations in that it was prescriptive rather than restrictive and therefore it would be appropriate to grant the variation.

29.23 The Chair then adjourned the meeting at 11.40am and the Panel retired to consider their decision.

29.24 The Chair reconvened the meeting at 11.55am and informed the various parties of the Panel's decision.

RESOLVED - That the application for a variation to the licence for the I Go Inn as detailed in the report be granted with the following conditions:-

- (i) Live music to be limited to no more than two performers per night on no more than 12 separate occasions per annum and all live music including Karaoke ending at 23.00hrs;
- (ii) No music or noise to be audible at the nearest noise sensitive premises after 23.00hrs.
- (iii) The employment of registered door supervisors from 10.00hrs to 00.45hrs on any occasion where the premises are able to trade until 12pm midnight;
- (iv) No bottles or other rubbish to be placed in outside bins between 23.30hrs and 07.00hrs each day;
- (v) All doors to the premises to be closed at 23.00hrs except to allow for access and egress;
- (vi) The outside garden area to be cleared of patrons by 23.00hrs every night;
- (vii) Appropriate signage to be displayed above all entrances and in the outside garden area requesting patrons to respect the needs of local residents and to leave quietly.

29.25 **Reasons for conditions:** The Panel considered that the imposition of the above conditions was necessary for the promotion of the licensing objectives, in particular the prevention of public nuisance.

29.25 The Legal Officer reminded the parties that they had the right of appeal to the Magistrates Court within 21 days of the Panel's meeting date and that the representatives should consider seeking independent legal advice. She also pointed out that there were other mechanisms open to the representatives in terms of seeking a review of the licence should they wish to do so.

The meeting concluded at 12.00 noon

Signed

Chair

Dated this

day of

2005