

BRIGHTON & HOVE CITY COUNCIL

LICENSING PANEL (Licensing Act 2003 Functions)

9.30am – 5 SEPTEMBER 2005

BANQUETING ROOM HOVE TOWN HALL

MINUTES

Present: Councillors Older, Pennington and Pidgeon

Also present: Miss. Sidell, Legal Officer, Mrs. Cranford, Licensing Officer and Mr. Wall, Clerk to the Panel.

PART ONE

112. TO APPOINT A CHAIR FOR THE MEETING

112.1 Councillor Pennington was appointed as Chair.

113. PROCEDURAL BUSINESS

113A Declarations of Substitutes

113.1 There were no declarations of substitutes.

113B Declarations of Interest

113.2 There were none.

113C Exclusion of Press and Public

113.3 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.

113.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of items 114 to 117.

114. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – PEDESTRIAN ARMS, 13-15 FOUNDRY STREET, BRIGHTON

- 114.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation under transitional arrangements of the Licensing Act 2003 at Pedestrian Arms, 13-15 Foundry Street, Brighton (see minute book).
- 114.2 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 playing of amplified live and recorded music and karaoke. 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.
- 114.3 The Licensing Officer noted that 13 representations had been received, which highlighted the negative impact that the proposed variations would have on the area. She also noted that there were no representations from the Responsible Authorities in respect of the application.
- 114.4 The Chair noted that the noise abatement order had applied to the previous licensee and was no longer in operation.
- 114.5 Councillor Taylor, representing Mr. & Mrs. Sawyers queried whether the Licensing Officer was aware of any action being taken by the Police Licensing Unit.
- 114.6 The Licensing Officer stated that as no representations had been received from Police it had to be assumed that they were happy with the application.
- 114.7 The Chair noted that there were no further questions for the Licensing Officer and therefore asked the interested parties to put forward their representations.
- 114.8 Mr. Ashwell stated that he lived next door and to date had had no problems with the pub. However, he was concerned about the proposed extension to midnight for Sundays to Thursdays, as it would impinge on his quality of life. Whilst he accepted the change for weekends, he was worried about the possibility of live music during the week and going beyond 11.00am.
- 114.9 Other representatives also expressed their concerns about the extension of hours during the week and the impact this would have on their quality of life and the likelihood of increased noise disturbance during opening hours and immediately after closing. Concern was also expressed about amplified music reverberating through the ground/walls and the use of the outside area by clientele rather than being kept within the pub.

- 114.10 Councillor Taylor stated that he had been asked by Mr. & Mrs. Sawyers to speak on their behalf as they and other residents were concerned about possible ramifications. Whilst they accepted the fact that living near the pub would mean putting up with the associated noise and activities until 11.00pm, they were concerned about detrimental effect later opening hours would have on their lives and the local area itself. It was felt that it would lead to more people congregating outside the pub late at night and a greater chance of public disorder. If the Panel were minded to grant the application it was hoped that consideration would be given to restricting the use of the outside area.
- 114.11 Members of the Panel queried how long the bench outside the front of the pub had been placed on the pavement and how often the windows and doors were kept open. Members of the Panel also asked for clarification in respect of the use of the bench and the impact of the noise nuisance mentioned by the representatives.
- 114.12 The representatives stated that it was their understanding the bench had been placed outside the venue for some time and whilst it was on the public highway, it was positioned over the pub's cellar doors. With regard to the noise reverberation, this tended to cause most nuisance when amplified music was played.
- 114.13 The applicants queried whether noise from open windows at the rear had been problem recently.
- 114.14 Mr. Law confirmed that it had not been an issue recently but had been in the past.
- 114.15 The Chair then asked the applicants to put forward their representations.
- 114.16 The applicants noted that neither the police nor environmental health had objected to the application and that since the licensee had taken over the premises neighbours had felt there had been an improvement in the running of the pub. They also stated that a separate licence had been given for the bench outside the pub and this had recently been renewed. The environmental health team had also given advice on the dimensions of the bench so that it complied with council criteria.
- 114.17 With regard to the actual running of the pub, because of the changes in the Licensing Act the application had to include references to live music etc. However, there was no intention to increase the number of occasions this took place and should any concerns be raised about noise etc. it was hoped these could be addressed locally. In recognition of the concerns raised they were also willing to reduce the hours for live music during the week, Mondays to Thursdays to 11.00pm and all recorded music Sundays to Thursdays to 12.00 midnight and Fridays/Saturdays to 12.30am.

- 114.18 In respect of the bench outside the front of the pub, they were happy to have a condition attached requiring that the outside area was closed and cleared by 11.00pm and the bench brought inside by 11.30pm. They were also willing to ensure notices were erected near all exits asking patrons to leave quietly and respect the Neighbourhood. It was also felt that 90% of customers arrived on foot from the local vicinity as it was a small local pub and the extensions requested reflected government objectives for the extended dispersal of patrons. The applicants also pointed out that whilst it was a residential area, there were two office blocks immediately opposite the pub.
- 114.19 The applicants also stated that they were aware of the need to seek to ensure customers left their premises in an orderly manner, however any public disorder outside in the street was not their responsibility but a matter for the police. It was hoped that the panel would approve the application with conditions as proposed.
- 114.20 The Panel Members queried how it was intended to regulate the levels of amplified music and whether or not the premises had any air conditioning.
- 114.21 The applicant stated that the management would check the noises levels and go outside to ascertain its effect. They also confirmed that the pub did not have any air conditioning, but had ceiling fans and an extractor fan at the front.
- 114.22 The Panel also queried when it was intended to replace the bench outside in the day and whether the applicant would be willing to install a noise limiter.
- 114.23 The applicant stated that the bench would be placed outside between 11.00 and 11.30am ready for opening and that the cost of installing a noise limiter was felt to be prohibitive, taking into account the size of the pub and the intention to self-regulate noise levels.
- 114.24 The interested parties queried whether the applicant accepted that the number of people congregating outside was more than it should be. They also queried whether in view of the various complaints about noise levels the applicant would install a noise limiter.
- 114.25 The applicant stated that they were aware of the need to ensure the number of people drinking outside was kept to a reasonable level and that they would endeavour to bring people inside as necessary. With regard to the installation of a noise limiter, it was not felt to be necessary at this point in time.
- 114.26 There being no other questions the Chair then asked the various parties to sum up.

- 114.27 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. She therefore suggested that the proposed conditions from the applicant could be added to the licence if the Panel was minded to grant the application. She also noted that the Licensing Act 2003 was not the primary mechanism for controlling public nuisance and that other avenues were available to deal with such instances.
- 114.28 The interested parties welcomed the concessions offered by the applicant and stated that there was still some concern with regard to future noise levels and the impact on residents' lives late at night. It was also felt that the installation of a noise limiter would be beneficial.
- 114.29 The applicant stated that there had been no complaints from the Police or the Environmental Health Team, and noted that local residents were happy with the way in which the pub was run. Having heard the concerns raised they were willing to have conditions attached to the license and therefore felt that the application should be granted.
- 114.30 The Chair then adjourned the meeting at 10.40am and the Panel retired to consider their decision.
- 114.31 The Chair reconvened the meeting at 11.00am and informed the various parties of the Panel's decision.
- 114.32 **RESOLVED** - That the application for a variation to the licence for the Pedestrian Arms, 13-15 Foundry Street as detailed in the report be granted with the following conditions:-
- (i) Live music to cease Sundays to Thursdays at 23.00hrs;
 - (ii) That the Licensee shall ensure that noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties after 23.00hrs.
 - (iii) All doors and windows to the premises to be closed at 23.00hrs except to allow for access and egress;
 - (iv) The outside area to be cleared of patrons by 23.00hrs every night and the bench to be brought inside by 23.30hrs;
 - (v) 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.
 - (vi) The outside area to be regularly monitored by the licensee during each

evening to ensure noise levels are appropriate and to prevent spillage onto the pavement and street, and to bring customers inside where necessary.

114.32 **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.

117.25 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.

115. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – GOLDEN CANNON, 20-21 ST GEORGES ROAD, BRIGHTON

115.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation under transitional arrangements of the Licensing Act 2003 at Golden Cannon, 20-21 St George's Road, Brighton (see minute book).

115.2 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 playing of amplified live and recorded music and karaoke. 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.

115.3 The Licensing Officer stated that two representations had been received relating to noise and public nuisance issues and that no representations had been received from the Responsible Authorities.

115.4 There were no questions from the various parties and the Chair asked the interested parties to put forward their concerns.

115.5 Mr. Egin stated that he was attending on behalf of Mr. Lawson and stated that he had also written in with regard to the application. The prime concern for residents was that the extensions requested would lead to increased noise and public nuisance. There was already a problem with the rear doors being continually left open and noise escaping and whilst action was taken when complaints were made, it was felt that this should be addressed.

115.6 Mrs. Randle stated that whilst she was happy with the pub's operation at present, she was concerned about the likely impact later opening would have. She believed customers parked in Bloomsbury Street and the opening and closing of car doors late at night would be a problem for residents. She

was also concerned about the likelihood of live music being played late into the night.

- 115.7 The Chair noted that the Panel and the applicant had no questions and therefore asked the applicant to put forward his representation.
- 115.8 Mr. O'Shaunessey stated that he was representing EAF Leisure Ltd and the licensee. The company's aim was to ensure that the establishment was well run and maintained good relations with the local residents. In this respect whilst there had been no objections from the Police or Environmental Health he would be happy to have a condition attached requiring the rear fire door to be closed by 21.00hrs.
- 115.9 Councillor Older queried why the door was opened and how this was allowed if it was a fire door.
- 115.10 Mr. O'Shaunessey stated that it was opened to allow air into the establishment and that should there be a requirement for it to remain closed from the Fire officer this would be adhered to.
- 115.11 The Chair noted that there were no further questions from the Panel or the interested parties and therefore asked the various parties to sun up.
- 115.12 The Licensing Officer stated that the Panel had a number of options with respect to any possible conditions they wished to attach e.g. the closing of doors and windows and signage, but otherwise the application was before them.
- 115.13 Neither the interested parties nor the applicant wished to add anything further.
- 115.14 The Chair then adjourned the meeting at 11.30am and the Panel retired to consider their decision.
- 115.15 The Chair reconvened the meeting at 11.35am and informed the various parties of the Panel's decision.
- 115.16 **RESOLVED** - That the application for a variation to the licence for the Golden Cannon, 20-21 St. Georges Road as detailed in the report be granted with the following conditions:-
- (i) The rear fire door to be kept closed at all times;
 - (ii) All doors to the premises to be closed at 23.00hrs except to allow for access and egress;
 - (iii) The Licensee shall ensure that noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties.

- (iv) 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.

115.17 **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.

117.25 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.

116. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – HORSE AND GROOM, ISLINGWORD ROAD, BRIGHTON

116.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation under transitional arrangements of the Licensing Act 2003 at Horse and Groom, Islingword Road, Brighton (see minute book).

116.2 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 playing of amplified live and recorded music and karaoke. 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.

116.3 The Licensing Officer stated that 13 representations had been received including a petition, the main point of concern being the negative impact of extending hours and increased public nuisance. She noted that no representations had been received from the Responsible Authorities.

116.4 Councillor Older noted that two letters from interested parties referred to the application notice not being prominently displayed at the establishment and queried whether there was any information on this point.

116.5 The Licensing Officer stated that she had no details on the matter.

116.6 Mr. Francome informed the Panel that he had been made aware of the difficulty and had moved the notice to a more suitable location for a period of two weeks.

116.7 Mr. Francome queried whether the petition signed by thirteen people was regarded as a single objection or multiple objections.

116.8 The Licensing Officer stated that it was recorded as a single objection.

- 116.9 There being no interested parties present, the Chair asked the applicant outline the application.
- 116.10 The Regional Manger stated that Mr. Francome had been the licensee of the pub for the last 12 months and during that time no complaints had been made. He noted the concerns raised with regard to noise and stated that every effort would be made to address any issues that arose. He would be happy to ensure that windows and doors were closed from 23.00hrs and to erect appropriate signage in accordance with the Licensing Policy. He also noted that there were other establishments in the close vicinity and suggested that some noise disturbances could be attributed to people leaving these venues. There was also a student population in the area who tended to play loud music late into the night and this again may have been mistakenly regarded as emanating from the Horse & Groom. The pub itself aimed to be a community pub and often supported local fund raising activities and took part in 'Hanover Day'.
- 116.11 Members of the Panel queried whether Mr. Francome lived on site and what action had been taken following complaints about the benches being placed on the pavement.
- 116.12 The regional manager stated that the benches had been removed and this was no longer an issue. He also confirmed that Mr. Francome lived on the premises and was therefore also disturbed by noise late at night from other people.
- 116.13 The Chair noted that there were no further questions and asked the various parties to sum up.
- 116.14 The Licensing Officer stated that the application was before the Panel and should be judged on its own merits. She also suggested that the Panel may want to consider setting conditions around noise vibration, the closing of doors and windows, signage and the hours for live music.
- 116.15 The applicant noted the suggested conditions and stated they were happy to accept them
- 116.16 The Chair noted the comments and having conferred with the other Panel members stated that the Panel was happy to approve the application with conditions.
- 116.17 **RESOLVED** - That the application for a variation to the licence for The Horse and Groom, Islingwood Road as detailed in the report be granted with the following conditions:-
- (i) All doors to the premises to be closed at 23.00hrs except to allow for access and egress;
 - (ii) The Licensee shall ensure that noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties;

- (iii) Live music Sundays to Thursdays to cease at 23.00hrs;
- (iv) Appropriate signage to be displayed at all exits requesting patrons to respect the needs of local residents and to leave quietly.

116.18 **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.

117.25 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.

117. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 - OLD MARKET, 11A UPPER MARKET STREET, HOVE

117.1 The Panel considered a report of the Assistant Director, Public Safety concerning an application for a variation under transitional arrangements of the Licensing Act 2003 at the Old Market, 11A Upper Market Street, Hove (see minute book).

117.2 The Licensing Officer outlined the details of the application, which sought a variation of the premises licence already granted under 'grandfather rights' and an extension hours for licensed activities on Thursday – Sundays. 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.

117.3 The Licensing Officer stated that there was an error on application for variation on page 78 of the papers circulated with the agenda, in that the sale of alcohol was allowed during normal operating hours. The Open Market was a venue rather than a pub. She stated that 21 representations had been received, with the primary concern relating to the negative impact of extending hours and increased public nuisance and disorder that would attribute to later opening. She noted that no representations had been received from the Responsible Authorities. She stated that the Environmental Health Team had received a number of complaints relating to noise from both within the premises and from patrons leaving at night. Whilst no statutory nuisance had been found, there had been discussions between the owner and residents and measures were being put in place to try to meet the concerns raised.

- 117.4 The Chair noted that there were no questions for the Licensing Officer from either of the parties and therefore asked the interested parties to make their representations.
- 117.5 Mr. Cowell stated that the Old Market was situated in a conservation area and had been a venue for music for sometime. He was aware that Mr. Neiman had tried to extend the activities in order to make it a viable venue, however there were problems with noise and public nuisance. The music tended to reverberate through the building and amongst the houses around the area and which directly impacted on local residents, some of whom had young children. There was a consistent problem with people leaving the venue and calling or taxis, use of mobile phones and patrons using nearby doorways as lavatories. There had also been damage to residents' cars. He believed that any change to the current situation would only make matters worse and therefore hoped that the Panel would not grant the application.
- 117.6 The Panel Members noted that noise from the courtyard had been referred to in the letters of objection and queried how many exits were in operation.
- 117.7 Mr. Cowell stated that the courtyard was in constant use and noise did circulate from there. He was also aware of bass music emanating from the venue and travelling through the walls of nearby houses. There were exits at the front, rear and through the courtyard area.
- 117.8 Mr. Neiman queried whether Mr. Cowell would agree that he had attempted to resolve resident's' difficulties with noise levels.
- 117.9 Mr. Cowell acknowledged that Mr. Neiman had been co-operative and sought to reduce the noise problem.
- 117.10 The Chair noted that there were no other questions and asked Mr. Neiman to put forward his application.
- 117.11 Mr. Neiman stated that having taken over the Old Market he had taken the view that any attempt to take it forward could not be achieved without the support of the local community. He had previously held outside jazz concerts but following local complaints had stopped this. He also ensured that wedding parties could only use the courtyard area up to 20.30hrs and made sure that windows between the venue and Mr. Cowell's property were kept closed. He noted that there were five pubs in the locality and suggested that people leaving these establishments could use Upper Market Street as a means to Western Road or the seafront and therefore may cause a nuisance and noise, rather than people leaving his venue. The problem with taxis had been recognised and patrons were now asked to wait inside the building until they arrived. Also, those leaving on foot were escorted up to Western Road in small groups, in order to try to ensure they respected the Neighbourhood. Last year there had been 47 extensions granted and none of these had resulted in either the police or environmental health from being called. He was in the process of having an

acoustic canopy installed at the front of the building, which he hoped would help to contain noise levels. He had also been in contact with the environmental health team who had not felt the need to recommend a noise limiter be installed due to the various acoustic works that had been implemented. However, staff did use a noise reader on a regular basis to check noise levels.

- 117.12 Members of the Panel queried the number of patrons that could be accommodated on the premises, why the extension had been requested for Thursdays and the location of the toilets.
- 117.13 Mr. Neiman stated that up to 300 people could be accommodated and that the toilets were located in the basement area. The request for Thursdays had been made as the Old Market was a venue rather than a pub and therefore had previously applied for extensions on Thursdays following demand for events to be held on these evenings. However should the Panel be minded to not grant the extension for Thursdays this would not be opposed.
- 117.14 Mr. Cowell queried why it was intended to operate a recording studio until midnight given the issue of noise that had been raised.
- 117.15 Mr. Neiman stated that the intention was to be flexible so as to facilitate the needs of orchestras and other such groups who could not record easily during the day or early evenings. However, he was willing to review this and to look to close the studio at 10.00 or 10.30pm.
- 117.16 The Chair noted that there were no further questions and asked the various parties to sum up.
- 117.17 The Licensing Officer noted that the Council's Licensing Policy recognised the need to encourage live music and theatre and therefore the application needed to be considered with this in mind. She suggested that there were a number of conditions that the Panel could consider such as, the closure of the external areas at a set time, the erection of an acoustic canopy, the use of a noise reader, revision of the operating hours of the recording studio and not to extend opening hours on a Thursday.
- 117.18 MR. Cowell stated that overall residents were happy with the Old Market, but the issue of noise was a problem, which they felt, needed to be addressed and hoped that the Panel could look to assist with this matter.
- 117.19 Mr. Neiman stated that he was keen to work with the community in a positive way, and with that in mind would be calling last orders half-an-hour prior to the close of the venue. He was willing to not have an extension on Thursdays, signs had already been erected asking people to leave quietly, noise readings were taken on an hourly basis, the recording studio would be closed at 22.00hrs, security staff would be on site from 23.00hrs and the erection of an acoustic canopy would be taken forward.

- 117.20 The Legal Officer confirmed that that the operating times for the venue would be Sundays to Thursdays 11.00am to 23.00hrs and Fridays to Saturdays 11.00am to 1.00am, with half-an-hour drinking up before closure.
- 117.21 The Chair then adjourned the meeting at 12.50am and the Panel retired to consider their decision.
- 117.22 The Chair reconvened the meeting at 13.00pm and informed the various parties of the Panel's decision.
- 117.23 **RESOLVED** - That the application for a variation to the licence for The Old Market, 11A Upper Market Street, Hove as detailed in the report be granted with the following conditions:-
- (i) The outside area is closed from 20.30hrs every night;
 - (ii) All windows and doors to the premises to be closed at 23.00hrs except to allow for access and egress;
 - (iii) The recording studio to be closed from 22.00hrs;
 - (iv) The variation in opening hours as offered by the applicant to apply i.e. Sundays to Thursdays 10.00am to 23.30hrs with the sale of alcohol ceasing at 23.00hrs and Fridays to Saturdays 11.00am to 1.00am the next day with the sale of alcohol ceasing at 00.30hrs.
- 117.23 The Chair also welcomed the fact that the applicant intended to install an acoustic canopy and to ensure noise readings were undertaken on a regular basis.
- 117.24 **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.
- 117.25 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 13.08pm

**LICENSING PANEL
(Licensing Act 2003 Functions)**

5 September 2005

Signed

Chair

Dated this

day of

2005