

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

9.30AM – 22 SEPTEMBER 2005

BRIGHTON TOWN HALL

MINUTES

Present: Councillors Older, Simson and Turner

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

PART ONE

213. ELECTION OF CHAIR

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

214. PROCEDURAL BUSINESS

214A. Declarations of Substitutes

214.1 There were no declarations of substitutes.

214B. Declarations of Interest

214.2 There were no declarations of interest.

214C. Exclusion of Press and Public

214.3 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.

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

215. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – ANCIENT MARINER

- 215.1 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 Ancient Mariner, 59 Rutland Road, Hove (see Minute Book).
- 215.2 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. 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.
- 215.3 The Licensing Officer noted that 57 representations had been received, which highlighted the negative impact and concern about increased noise that the proposed variations would have on the area. She noted that of the 57 representations, 26 were of a standard letter format. She also stated that there were no representations from the Responsible Authorities in respect of the application and that any issues regarding noise could be raised separately with the Environmental Health Team.
- 215.4 The Chair noted that there were no questions for the Licensing Officer and therefore asked the interested parties to put forward their representations.
- 215.5 Mr. Marriott stated that he believed there would be excessive noise after the normal licensing hours and this would have a negative impact on the local residents. Whilst he acknowledged that living next to the pub meant that certain aspects had to be accepted, he had not anticipated having to live next to a night club. The application implied that this would be the case and he felt that the Panel should address this.
- 215.6 Mr. Hill stated that there were difficulties with car parking and damage to residents' cars and gardens, which it was felt was likely to increase along with more litter noise late at night. He believed that it should remain as a Neighbourhood pub and respect the needs of the residents.
- 215.7 Councillor Oxley stated that he was representing residents of Coleridge Street and Rutland Road, in particular Mrs. Witherington. Their concerns related to public nuisance increased ambient noise, the lack of public transport beyond normal licensing hours and public safety matters. He suggested that noise levels later into the night would be

detrimental to people's sleep patterns and the nature of the Victorian terraces would only exacerbate the noise. With regard to public safety, it was felt that as it was a residential area, it would not be regarded as a priority for policing levels as these would be concentrated in the city centre and therefore response times would be longer etc. He stated that on the occasion late licenses had been granted there had been incidents of disorder and public nuisance. He therefore hoped the Panel would give consideration to the issues raised and enable residents to enjoy their lives.

- 215.8 Ms. Wilford stated that she lived directly opposite the pub and had moved to the area in January. She accepted that there would be some noise etc from living nearby but was content with the fact that it would cease at 11.00pm. However, this was all now likely to change and to the detriment of local residents. She was concerned about the noise factor, especially as it already impinged on her life.
- 215.9 Members of the Panel queried whether reports had been made following the problems experienced with extensions to opening hours. Questions were also raised with regard to noise levels and transportation links.
- 215.10 The interested parties stated that reports about noise and associated problems had not been made because of a lack of understanding as to how and who to report to. There were bus connections in Portland Road and Aldrington Street, and it was thought they ceased at 11.00pm.
- 215.11 The applicant queried whether the damage caused to residents' property could be directly attributed to patrons of the pub. Mr. George also queried whether there had been any complaints about noise made to the Environmental Health team.
- 215.12 The interested parties acknowledged that damage to properties could have been caused by patrons from other establishments in the vicinity and stated that complaints had not been made about noise levels because of the fact it would cease at 11.00pm.
- 215.13 There being no other questions the Chair then asked the applicants to put forward their representations.
- 215.14 Mr. George stated that the application had been made in accordance with the spirit of the new licensing regulations. It was intended to operate as things had in the past and to seek to accommodate the views of the local community. If concerns about noise were raised, the licensee would seek to resolve any issues as quickly as possible. There was no intention to increase the number of live music performances or to have any dancing. However, the

application had to refer to dancing to enable customers to move to music being listened to as it was directly referred to in the legislation. With regard to the outside areas, he was happy to consider an earlier time for them to be cleared e.g. 11.00pm. He was also willing to ensure all live music finished at 11.00pm and that windows and doors were kept closed. The pub had become a popular venue and the intention was to enable people to remain longer so as to disperse over a longer time frame in accordance with the licensing objectives of the new regulations.

215.15 Panel Members queried whether the DJ operated music went through the pub's sound system and what steps were taken to help with transport needs.

215.16 Mr. George stated that the pub's own sound system was used on the occasions that a DJ played music and the staff were willing to call taxis for patrons and for them to wait inside until the their taxi arrived.

215.17 The interested parties queried whether there would be an opportunity to raise any matters of concern directly with the manager and whether any consideration could be given to sound-proofing the venue.

215.18 The manager stated that she would be willing to listen to any concerns and would seek to address any problems as best she could. Mr. George stated that sound-proofing was something that could be looked at although it was hoped other ways of containing noise levels would be suffice.

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

215.20 The Licensing Officer noted that the new regulations were not the primary mechanism for containing disorder and that alternative means should be used. With regard to the issues raised she suggested that a number of conditions could be considered such as:

Outside areas to be cleared by 11.00pm

Amplified music to be contained and not audible by neighbouring properties

Doors and windows to be kept closed

Reasonable steps taken to ensure people leave quietly and have regard for residents.

215.21 The interested parties stated that they were concerned about the impact of noise levels on their lives and the uncertainty as to whether any action would be taken to resolve problems that were identified. They asked that the current operating levels be maintained.

215.22 The applicants stated that they wished to take advantage of the new licensing regulations and having operated without any concerns being raised by the various authorities would endeavor to continue to operate responsibly.

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

215.24 The Chair reconvened the meeting at 10.45am and informed the various parties of the Panel's decision.

215.25 **RESOLVED** – That the application for a variation to the licence for the Ancient Mariner, 59 Rutland Road, Hove as detailed in the report be granted with the following conditions:-

- (i) The outside area to be cleared of patrons by 23.00hrs every night;
- (ii) All doors and windows to the premises to be closed at 23.00hrs except to allow for access and egress;
- (iii) Automatic door closures to be fitted to all external doors, including the garden area, and in operation from 11.00pm each night;
- (iv) All music or noise not to be audible at the nearest noise sensitive premises after 23.00hrs;
- (v) The AVC to be checked and set at an agreed level by the Licensing Authority;
- (vi) Live music shall not be provided after 23.00hrs.

215.26 **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. The Chair also noted that the operating schedule included additional points such as the erection of signage, which would become conditions to the licence, and therefore have to be maintained.

215.27 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.

216. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – THE COACH HOUSE

- 216.1 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 Coach House, 59 Middle Street, Brighton (see Minute Book).
- 216.2 The Licensing Officer outlined the details of the application, which sought a variation of hours for the provision of alcohol, provision of regulated entertainment and late night refreshment. 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.
- 216.3 The Licensing Officer informed the Panel that 2 representations had been received, which were concerned with the anticipated negative impact of extended opening hours, noise levels and public nuisance. There were no representations from the responsible authorities, although a complaint on the 16th September regarding noise had been investigated by the Environmental Health team and subsequently resolved.
- 216.4 There being no questions of the Licensing Officer, the Chair asked the interested party to put forward his concerns.
- 216.5 Mr. Swire stated that his property was only feet away from the establishment and with a young baby in the house was concerned about the impact of noise levels. He believed this would have a negative impact on the quality of his family's life and that of other residents, and also felt that the extended opening hours could result in public nuisance instances.
- 216.6 Panel Members queried whether noise levels were a problem generally and whether they were primarily related to the use of the outside area.
- 216.7 Mr. Swire stated that he had on occasion raised the problem of noise with the manager who had been less than helpful. Whilst noise from the garden area was the main problem, he felt it would be an issue beyond 11.00pm within the pub.
- 216.8 The applicant queried whether Mr. Swire had made the complaint on the 16th September and on other occasions previously and how they were dealt with.
- 216.9 Mr. Swire acknowledged that the manager had resolved previous complaints, but the incident on the 16th had led to him having to contact the Environmental Health team.
- 216.10 There being no further questions the Chair invited the applicant to put

forward their representations.

- 216.11 Mr. Lawrence stated that the Coach House was a very well run establishment, which provided a particular service to post-theatre clientele, attracting a divers range of customers. There was no intention to alter the operation of the premises but rather to maintain the service provided over a longer period. With regard to the objections raised, it was not for the licensee to be held accountable for public disorder in the outside vicinity. This was a well used thoroughfare by a number of people who would not have been going to or coming from the Coach House. He accepted that there had been a problem with noise levels but this had been resolved and overall the Coach House had a good record. The outside area would only be used for seated patrons and staff would be encouraged to ensure all reasonable steps were taken to reduce noise levels.
- 216.12 Mr. Lawrence stated that Middle Street was a thriving city centre area and as such was likely to have high ambient noise levels because of the number of establishments in the vicinity. The intention was to have live music as an accompaniment to meals and all music would only be played inside. The aim was to meet the demands of a niche market and to take account of the changes in the licensing law, so as to enable the licensee to earn a living.
- 216.13 Panel Members queried what time the serving of food ended and whether a manager was always on the premises. Members also queried whether large group bookings were taken and what action was taken to ensure they did not get out of hand.
- 216.14 Mr. Lawrence stated that the serving of food ceased at 11.00pm and confirmed that a manager was always on the premises. Whilst group functions were not usually booked, a contact name and address was always taken.
- 216.15 Mr. Swire queried how any complaints would be dealt with as they arose and whether consideration would be given to having door supervisors.
- 216.16 Mr. Lawrence stated that the manager would endeavour to deal with any complaints that arose at the time and noted that the police had not been called out to date. He was also willing to ensure that contact details for the managers were made available to residents. He noted that door supervisors had been used for special events and would continue to be, but it was not felt necessary for normal operating times.
- 216.17 The Chair noted that there were no further questions and asked the various parties to sum-up.

- 216.18 The Licensing Officer stated that she had no further comments and suggested that the application should be considered on its own merits.
- 216.19 Mr. Swire stated that he had suggested a means of compromise in his letter of objection and that his prime concern was that of the impact of noise on his quality of life. He referred to the Convention for Human Rights, and suggested that the Panel should take it into account in their deliberations.
- 216.20 Mr. Lawrence stated that the Coach House was a long-standing and well-run establishment and that the application was in-line with the Council's Licensing Policy and should therefore be approved.
- 216.21 The Chair then adjourned the meeting at 11.25am and the Panel retired to consider their decision.
- 216.22 The Chair reconvened the meeting at 11.30am and informed the various parties of the Panel's decision.
- 216.23 **RESOLVED** – That the application for a variation for the Coach House, 59 Middle Street, for a premises licence already granted under "grandfather rights" be granted subject to the erection of 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.
- 216.24 **Reasons for granting licence:** 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.
- 216.25 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.

217. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – THE RESERVOIR

- 217.1 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 Reservoir, 1 Howard Road, Brighton (see Minute Book).
- 217.2 The Licensing Officer outlined the application and stated that 4 representations had been received which related to concerns over the extension of hours and the negative impact of noise and public nuisance. She noted that there were no objections from the various

responsible authorities.

- 217.3 The Chair noted that there were no questions for the Licensing Officer and therefore asked the Interested Parties to put forward their representations.
- 217.4 Mr. Walker stated that he had spoken with the other objectors and they all agreed that the pub was a well-run establishment. Their concern was around the future impact of noise levels. They had previously raised concerns directly with the licensee and he had sought to resolve matters as quickly as possible. With an extension of hours however, it was felt that noise intrusion would go beyond acceptable tolerance for living next to or nearby a pub. There was also an outside area with a dividing flint wall, which simply exacerbated the problem of the level of noise coming from the area. The pub itself had wooden floors, which meant that noise could travel more easily and there was an issue with the emptying and recycling of bottles etc occurring at 5.00am.
- 217.5 Panel Members queried whether there was a noise problem when the windows and doors were closed.
- 217.6 Mr. Walker stated that he was not aware of any nuisance being caused once they were closed.
- 217.7 There being no other questions the Chair invited the applicant to put forward their representations.
- 217.8 The applicant stated that the application had been made because of the need to apply following the change in the licensing regulations, and he was willing to discuss any issues with residents as they arose. He noted that the application did not refer to extend hours for Bank Holidays and queried whether this could be included.
- 217.9 The Legal Officer stated that it was not possible to alter the application at this point in time, however there was nothing to prevent a further application to vary the licence.
- 217.10 Members of the Panel queried whether there were any noise monitors in use at present and whether consideration could be given to installing air conditioning. Members also queried whether the applicant would be willing to cease playing recorded music at 11.00pm i.e. at the same time the serving of alcohol stopped. The Panel queried whether there was any feasibility to ensure that the collection of empties etc. did not occur before 7.00am.
- 217.11 The applicant confirmed that there were no noise monitors in use currently and that he would be willing to look into the possibility of installing air conditioning equipment. He was willing to cease the playing of recorded music at 11.00pm and had already agreed with

his contractor that the collection of empties would take place during the day.

- 217.12 Mr. Walker queried whether the applicant would be willing to clear the garden area by 9.00pm.
- 217.13 The applicant stated that in general he was willing to close the area at 9.00pm but that during the summer period he felt this would not be appropriate and would prefer 11.00pm.
- 217.14 The Chair noted that there were no further questions and asked the various parties to sum up.
- 217.15 The Licensing Officer suggested that consideration could be given to setting a time for the clearance of the garden area and ensuring that noise emission did not cause a nuisance to neighbours.
- 217.16 Mr. Walker stated that he would like to see the garden area closed at a reasonable time.
- 217.17 The applicant stated that he would seek to meet the concerns of residents and would continue discussions after the hearing, however he hoped that the Panel would agree to the application.
- 217.18 The Chair then adjourned the meeting at 11.55am and the Panel retired to consider their decision.
- 217.19 The Chair reconvened the meeting at 12.00noon and informed the various parties of the Panel's decision.
- 217.20 **RESOLVED** – That the application for a variation to the licence for The Reservoir, 1 Howard Road, Brighton as detailed in the report be granted with the following conditions:-
- (i) That the licensee shall ensure that noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties;
 - (ii) That the disposal of empties and other rubbish shall not take place between 23.00hrs and 07.00hrs and that there be no collection of empty bottles from the premises before 07.00hrs;
 - (iii) That all doors and windows to be closed from 23.00hrs and
 - (iv) That the outside garden area shall be closed and cleared by 23.00hrs.
- 217.21 **Reasons for granting licence:** 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.

217.22 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.

218. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – THE WITHDEAN SPORTSMAN

218.1 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 Withdean Sportsman, Tongdean Lane, Brighton (see Minute Book).

218.2 The Licensing Officer stated that no representations had been received from interested parties. With regard to the Responsible Authorities, one representation had been received from the Police who were concerned that there was no mention in the operating schedule as to how the four licensing objectives would be met on match days.

218.3 The Chair noted that there were no questions for the Licensing Officer and therefore asked the Police representative to put forward their representations.

218.4 The Licensing Officer from Sussex Police stated that the Withdean Sportsman currently operated under the Brewers Fare Group and that it unusually catered for fans from both sets of teams on match days. In this respect the Police in terms of their policing levels had graded the home matches and the various discussions had been held with the licensees. The Police wanted to continue the good working relationship with the licensees, however a recent visit had found that the cctv was not functioning correctly. This was felt to be an important factor in regard to meeting the licensing objectives and the issue was raised along with the inclusion of possible conditions for the operation of the premises, (which were circulated for information). A number of attempts had been made to clarify the licensee’s position with regard to cctv and the proposed conditions but to date no response had been received. He therefore asked that the Panel give consideration to attaching the proposed conditions to the licence, in order to safeguard the licensing objectives.

218.5 The Chair noted that neither the Panel nor the applicant had any questions and therefore asked the applicants to put forward their representations.

218.6 The applicants stated that they had been operating the Sportsman since February 2005 and had met regularly with the police to ensure

that any concerns were met. They were aware of the problem with the cctv system and were hoping to resolve the situation to enable it to be functional. It was also intended that the extended hours would only be used for special events and these would be advertised beforehand.

- 218.7 Members of the Panel queried why there appeared to be such a delay in responding to the points raised by the Police and whether the applicants had authority to agree to any conditions that may be imposed.
- 218.8 The applicants stated that they were dependent on approval from the company's solicitors and it was difficult for them to comment on the time that was being taken.
- 218.9 The Licensing Officer from the Police queried whether the cctv was currently working and whether the applicants agreed that it would be beneficial.
- 218.10 The applicants confirmed that it was not functioning and that they had asked the company's safety and security team to arrange for it to be either repaired or replaced. They agreed that a working system would be beneficial to the security of the premises, staff and patrons and hoped that the matter could be resolved.
- 218.11 The Chair noted that there were no further questions and asked the various parties to sum-up.
- 218.12 The Licensing Officer stated that the matter was before the Panel but drew their attention to the benefits of a fully functional cctv system for such a premises.
- 218.13 The Licensing Officer for the Police stated that the proposed conditions were regarded as being an additional measure to maintain the licensing objectives and he hoped they could be included. The Police would continue to liaise and work with the applicants, however the failure to respond to the points raised was a concern.
- 218.14 The applicants stated that they were willing to continue to work with the Police and that during the five to six months they had been operating the premises there had been no serious incidents. They hoped that the Panel would agree to their application.
- 218.15 The Chair then adjourned the meeting at 12.20pm and the Panel withdrew to consider their decision.
- 218.16 The Chair reconvened the meeting at 12.25pm and informed the various parties of the Panel's decision.

218.17 **RESOLVED** – That the application for a variation to the licence for The Withdean Sportsman, Tongdean Lane, Brighton as detailed in the report be granted with the following conditions:-

(i) That the Public House will operate a CCTV system which will be fully maintained and be in working order at all times;

(ii) That during days when Brighton & Hove Albion FC are playing at the Withdean Stadium, the premises is to be closed to the public for the duration of the game;

(iii) That liaison should be maintained with the Sussex Police Football Intelligence Unit;

(iv) That SIA trained door supervisors should be present on the premises during match days to provide appropriate levels of security; and

(v) That during match days plastic/shatterproof-drinking receptacles are to be used and glass bottled drinks to be decanted into them wherever practicable.

218.19 **Reasons for granting licence:** The Panel considered that the imposition of the above conditions was necessary for the promotion of the four licensing objectives – the prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.

218.20 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 12.30pm

Signed

Chair

Dated this

day of

2005