

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

**2.00PM – 27 SEPTEMBER 2005**

**HOVE TOWN HALL**

**MINUTES**

Present: Councillors Older (Chair) Cobb and Pidgeon

**PART ONE**

**254. ELECTION OF CHAIR**

254.1 **RESOLVED** – That Councillor Older be elected Chair for this meeting.

**255. PROCEDURAL BUSINESS**

**255A. Declarations of Substitutes**

255.1 There were no declarations of substitutes.

**255B. Declarations of Interest**

255.2 There were no declarations of interest.

**255C. Exclusion of Press and Public**

255.3 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.

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

**256. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – FORTUNE OF WAR**

256.1 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 Fortune of War, 157 King's Road Arches, Brighton (see Minute Book).

256.2 The applicants attended the Panel. Mr C Holm, Resort Services Manager, Brighton & Hove City Council attended to object to the application.

256.3 The Licensing Manager summarised the application as set out in report. Representations had been received from local businesses and the council's Resort Services Manager. Conditions were suggested in the report, which would prevent the premises becoming a public house.

256.4 Mr Holm set out his objections to the application. Although the council supported a night time economy, it needed to be a balanced economy, in which the needs of businesses in the area were weighed against the requirements of the applicants. Time was needed for council staff to clear the area of rubbish and for Seafront Officers to carry out their duties, before trading started in the morning.

256.5 Mr Holm would withdraw his objection if certain conditions were put in place, namely that there be no off sales of alcohol between 11.00 p.m. and 10 a.m. and that the licensed patio have SIA registered door supervisors in place until the patio is shut. The area south of the road should not be used after 11.00 p.m. in the evening.

256.6 The applicant's representative informed the Panel the applicants were seeking 24 hour opening as they sought flexibility. The premises was well run and 24 hour opening would not adversely effect the businesses in the area.

256.7 The applicants' representative explained that the Fortune of War had a external terraced area south of the roadway. It was proposed that this area, when in use, should be closed and cleared by 11.00 p.m. It was further proposed that there be no off sales until 10.00 a.m. The front patio area would be supervised by staff, save on Saturdays and Sundays when not less than one SIA registered door supervisor would operate between 10.00 p.m. and 6.00 a.m, or until the premises closes if sooner, unless that external area should be closed and cleared by 11.00 pm.

256.8 **RESOLVED** – That the application for a variation for the premises licence already granted under “grandfather rights” be granted.

The following conditions to be attached to the licence.

- (1) There to be no off sales between 23.00 hours and 10.00 hours.
- (2) The external areas to be supervised by staff save on Friday and Saturday , when the external area will be supervised by not less than one SIA registered door supervisor between 22.00 hours and 06.00 hours. or until the premises closes if sooner, unless that external area should be closed and cleared by 23.00 hours.
- (3) The terraced area south of the roadway to be closed and cleared by 23.00.

**Reasons for granting the licence and attaching conditions:** It was considered that the conditions attached were reasonable having regard to the concerns expressed about public nuisance.

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

## **257. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – PARK CRESCENT**

257.1 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 Park Crescent, Park Crescent Terrace, Brighton (see Minute Book).

257.2 The applicants, Mr Wilson and Mr Lindfield attended the Panel. A number of residents attended the panel and set out their objections to the application. These included Ms Knight, Mr Avery, Mr Jeffery, Ms Macdonald and Mr Townsend on behalf of Ms Smith. Councillor Keith Taylor attended to speak on behalf of Ms Farrell, a residential objector.

257.3 The Licensing Manager summarised the application as set out in report. A number of representations had been received from local residents. No representations had been received from Environmental Health or the police. There had been noise complaints received in the past. These complaints had been resolved. There was a current investigation in progress but a statutory nuisance had not yet been established.

257.4 The local residents set out their objections to the application. Mr Townsend, speaking on behalf of Ms Smith, informed the Panel that the main objection was that the premises was in a residential area, boarded on two sides by terrace houses. The houses on one side were grade 2 listed. Noise was always an issue in this narrow street. In addition, there was an adjoining block of flats to the pub. The application therefore contravened the council's licensing policy.

257.5 An objector informed the panel that they lived immediately opposite the pub. The nature of the pub had changed. It now attracted younger people and noise had increased. The objector could not have sitting room windows open in summer. The noise continued until the 11.30 closure making it impossible to sleep earlier. A 2.30 a.m. closure would be intolerable. Further problems were caused by people shouting and speaking loudly on mobile phones outside the pub.

257.6 An objector emphasised the narrowness of road and expressed concern about access for emergency vehicles. There was a problem with bikes chained to railings.

257.7 An objector explained that many families lived in close proximity to the pub. The level of noise had woken her up the previous night. If the noise went on till 2.00 a.m. the sleep of children would be severely affected.

257.8 An objector reported that her mother had lived in the area for 45 years and was therefore able to judge the level of noise over that period. The noise was much worse over the last 4 years, since the pub had catered for students. The premises was no longer a community pub. Meanwhile, many elderly people lived in Devonshire Court, which adjoined the premises.

257.9 Councillor Keith Taylor, speaking on behalf of Ms Farrell, stressed that the pub had massive potential to destroy a neighbourhood. People enjoyed living in Park Crescent and being part of a vibrant city. Ms Farrell was concerned about the noise emanating from the pub. Ms Farrell had children who slept in the front of the building and was concerned at the effect of later hours on their sleep. There had also been some antisocial behaviour linked to the patrons of the pub. Ms Farrell had had her vehicle damaged on two occasions. Councillor Taylor asked the Panel on Ms Farrell's behalf, to refuse the application.

257.10 An objector expressed concern about the route from the Race Hill pub. They were not aware that the Race Hill had

requested extended hours and were concerned that at closing time, their patrons would move on to the Park Crescent.

257.11 The applicant informed the Panel that he had been licensee for 9 years. He also had been woken up on several occasions by people coming back from venues in the city and walking down the narrow street. The pub currently shut at 11.00 p.m. It was a local pub for the local community. The parking problem was not caused by the pub.

257.12 The applicant explained that the licensing hours had been applied for by the brewery. The applicant proposed the following modified hours. Sale of alcohol – Sunday to Thursday – 10.00 to 12.30 a.m. with 30 minutes wind down. Friday and Saturday – 10.00 to 1.00 a.m. with additional 30 wind down time. The applicant further suggested that doors and windows be closed at 11.00 p.m. The garden closed and cleared by 11.00 p.m. No live music after 11.00 p.m. and no children to be admitted after 9.00 p.m.

257.13 The applicant stressed that the pub had not changed in the last 4 years and was no busier than 6 years ago. The pub did not cater solely for students and was not the only pub near to the Race Hill. There were 4 other pubs in Elm Grove. Park Crescent was a small friendly pub with a welcoming environment. Live music was rare. The intention was to have live music once a month. The applicant did not consider it necessary to impose conditions stating that a noise limiter be fitted for that there should be no re-entry after 11.00 p.m.

257.14 **RESOLVED** - That the application for a variation for the premises licence already granted under "grandfather rights" be granted with the following amendments.

The hours for the supply of alcohol to be Sunday to Thursday – 10.00 to 00.00 hours. Friday to Saturday – 10.00 to 01.00 hours. Hours open to the public to be Sunday to Thursday – 10.00 to 00.30 hours. Friday and Saturday – 10.00 to 01.30 hours. Films, Indoor sporting events and recorded music to be in line with the hours for the supply of alcohol. Regulated entertainment to be in line with opening hours. The hours for New Years Eve to be granted as requested.

The following conditions to be attached to the licence.

(1) The garden to be closed and cleared by 23.00 hours.

(2) All external doors and windows to be shut from 23.00 hours, save for access and egress.

(3) All live and amplified music including DJ music to cease by 23.00 hours.

(4) The Licensee must ensure that people on or leaving the premises conduct themselves in an orderly manner at all times and do not in any way cause annoyance to residents and people passing by the premises.

(5) The Licensee shall ensure that prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly. Patrons to be requested to be aware of residents when using mobile phones.

(6) The Licensee shall ensure that excessive noise does not come from the premises, such as to cause people in the neighbourhood to be unreasonably disturbed.

**Reasons for amending hours and attaching conditions:** It was considered that the amendment to the hours and conditions attached were reasonable and should help to prevent public nuisance and alleviate concerns about noise caused by patrons leaving the premises.

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

## **258. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – THE BEACH**

258.1 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 Beach, 171-181 King's Road Arches, Brighton (see Minute Book).

258.2 The applicants attended the Panel. Mr C Holm, Resort Services Manager, Brighton & Hove City Council attended to object to the application.

258.3 The Licensing Manager summarised the application as set out in report. Representations had been received from local businesses, the council's Resort Services Manager and the police.

258.4 Mr Holm set out his objections to the application. Although the council supported a night time economy, it needed to be a balanced economy, in which the needs of businesses in the area

were weighed against the requirements of the applicants. Time was needed for council staff to clear the area of rubbish and for Seafront Officers to carry out their duties, before trading started in the morning. Mr Holm believed that 24 hour drinking would lead to public nuisance and public safety issues. Mr Holm did not agree with to 24 hour opening as he felt 6.00 am would be a suitable time to close. However he would withdraw his objection if certain conditions were put in place.

258.5 The applicant's representative informed the Panel the applicants were suggesting a condition, which would ensure there was waiter/waitress service on the patio. The applicants were seeking 24 hour opening as they sought flexibility. The premises was well run and 24 hour opening would not adversely effect the businesses in the area.

258.6 The applicants suggested that on Sundays to Thursdays the premises was supervised by the licensees and their staff. SIA registered door supervisors would be used on Fridays and Saturdays between 10.00 pm and 6.00 a.m.

258.7 The applicant understood that the police had withdrawn their objection but this could not be confirmed by the Licensing Manager.

258.8 **RESOLVED** – That the application for a variation for the premises licence already granted under “grandfather rights” be granted, subject to the conditions suggested by Sussex Police.

The following conditions to be attached to the licence.

(1) The premises will be supervised by the licensees and their staff on Sundays to Thursdays.

(2) Fridays and Saturdays, after 22.00 hours and until 06.00 hours, or until the area is closed if sooner, the area will be supervised by not less than 1 SIA registered supervisor, unless it is the client's intention on those days to clear and close the area by 23.00 hours.

(3) The outside service area, across the roadway from the premises, will be by waiter /waitress service only.

**Reasons for granting the licence and attaching conditions:** It was considered that the conditions attached were reasonable having regard to the concerns expressed about public nuisance.

The Panel solicitor reminded the parties of their appeal rights to the Magistrates Court under the Licensing Act and that appeals must be

made within 21 days of written notification of the decision given at the hearing.

**259. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – THE PRODIGAL BAR**

259.1 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 Prodigal Bar, 80 East Street, Brighton (see Minute Book).

259.2 Ms Gibson, Ms Leigh and Mr R Nichols attended the Panel as residential objectors.

259.3 The Licensing Manager summarised the application as set out in report. Representations had been received from local residents. No representations had been received from Environmental Health or the police. There had been noise complaints received in the past. These complaints appeared to have been resolved.

259.4 Mr R Nichols informed the Panel that he was a resident of Clarendon Mansions. He was concerned at the possibility of increased noise if the licence was extended. All his windows faced on to the street and he had children aged 12 and 7. Increased noise after 11.00 p.m would be unacceptable. Meanwhile, SIA registered door supervisors were only used at weekends and little action was taken to encourage people to disperse quietly.

259.5 Ms Gibson, also a resident of Clarendon Mansions, informed the Panel that the venue was geared to students and had 2 for 1 drink offers, and £1 a drink nights. The pub took up the whole ground floor of Clarendon Mansions. Ms Gibson’s flat was close to Brills Lane which was used for storing rubbish and bottles. Antisocial behaviour such as shouting and urinating took place in this passage. Residents were woken by the sound of bottles being collected at 5.00 to 6.00 a.m. Ms Gibson and Ms Leigh were involved in obtaining a noise abatement order at the premises this year.

259.6 Ms Gibson and Ms Leigh suffered from noise and noxious cooking smells in their flat, which came through the floorboards. This situation had improved in the summer but could worsen with the onset of winter when windows in the premises would be shut. Ms Gibson informed the Panel that she was asthmatic, and the cooking fumes worsened her condition.

259.7 **RESOLVED** – That the application for a variation for the premises licence already granted under “grandfather rights” be granted with the following amendments.



The hours for the supply of alcohol to be Sunday to Thursday – 10.00 to 23.30 hours. Friday to Saturday – 10.00 to 00.00 hours. Hours open to the public to be Sunday to Thursday – 10.00 to 00.00 hours. Friday and Saturday – 10.00 to 00.30 hours. All other activities to be brought in line with opening hours.

The following conditions to be attached to the licence.

(1) The licensee shall ensure that noxious smells from the licensed premises are not permitted so as to cause a nuisance to nearby properties and that the premises is properly vented.

(2) No disposal of bottles or rubbish into receptacles outside the premises should take place between the hours of 22.00 and 08.00, in order to minimise the disturbance to nearby properties.

**Reasons for amending hours and attaching conditions:** It was considered that the amendment to the hours and conditions attached were reasonable and should help to prevent public nuisance.

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

## **260. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – WHELAN'S LION & LOBSTER**

260.1 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 Whelan's Lion & Lobster, Sillwood Street, Brighton (see Minute Book).

260.2 The applicants, Mr Gary Whelan and Mr Fin Whelan attended the Panel with their representative Mr D Simmonds. Several residents attended the panel and set out their objections to the application.

260.3 The Licensing Manager summarised the application as set out in report. Representations had been received from local residents. No representations had been received from Environmental Health or the police. There had been noise complaints received in the past. These complaints appeared to have been resolved.

260.4 Mr Simmonds confirmed that a supper hour certificate was in

force allowing the restaurant to open to 12.00 midnight.

260.5 An objector who lived next door to the premises informed the Panel that the pub was situated in a residential area. Noise penetrated from the pub to the street outside. There was a particular problem with live and amplified music, even when the pub doors were shut. Private parties within the pub also caused a nuisance to neighbours. Noise nuisance from people drinking in the street had worsened over the last two years. There was also a problem with antisocial behaviour resulting in people vomiting and urinating in the street.

260.6 An objector, who had three young children and a family member who had to get up early in the morning, informed the Panel that noise and nuisance had slightly abated in recent months. However, they were worried about the possibility of extended hours. They were particularly worried about the effect of amplified music till 2.00 a.m. on some occasions and the general movement of people coming and going in the street. The street was narrow with tall houses. This amplified the noise. Concerns were expressed about the noise caused by rubbish being placed outside at night.

260.7 Mr Simmonds informed the Panel that the premises was a community pub. It was not uncommon to serve 200 roast dinners on a Sunday by 6.00 p.m. There were a number of licensed premises in the area and not all the problems in the street could be directed to Whelan's Lion and Lobster. The premises were not proposing to play live music after 11.00 p.m.

260.8 The applicants were concerned that there were objections about noise from the premises and had engaged a noise consultant who had proposed a number of measures to reduce noise penetrating from the premises. This included the use of sound absorbent carpet and curtains.

260.9 The applicants were willing to ensure all doors and windows were closed after 11.00 pm and to have background recorded music reduced after 11.00 pm. The applicants would ensure a good exiting policy and would consider no admittance after 11.00 p.m. CCTV was being considered but might be subject to planning approval. No people would be allowed to drink in the front area outside the pub after 11.00 pm and there would be no extension of off sales.

260.10 **RESOLVED** - That the application for a variation for the premises licence already granted under "grandfather rights" be granted.

The following conditions to be attached to the licence.

- (1) There to be no off sales after 23.00 hours.
- (2) All outside areas to be closed and cleared by 23.00 hours.
- (3) Doors and windows to be closed by 23.00 hours except for access and egress.
- (4) The sound absorbent curtains to be installed within six months and to be drawn at 23.00 hours until the hour of closure.
- (5) No refuse to be placed outside the premises between the hours of 23.00 and 08.00.
- (6) Background music to be reduced at 23.00 hours.
- (7) No admittance to the premises after 00.00 hours.

The Panel welcome the recommendations for a soundproofing scheme.

**Reasons for granting the licence and attaching conditions:** It was considered that the conditions attached were reasonable having regard to the concerns expressed about public nuisance.

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

The meeting concluded at 5.43 p.m.

Signed

Chair

Dated this

day of

2005