

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

2.00PM – 29 SEPTEMBER 2005

HOVE TOWN HALL

MINUTES

Present: Councillors Cobb, Pidgeon and Watkins

Also present: Miss. R. Sidell, Legal Officer, Mr. C. Giddings, Licensing Officer and Mr. M. Wall, Clerk to the Panel.

PART ONE

273. ELECTION OF CHAIR

273.1 **RESOLVED** – That Councillor Cobb be elected Chair for this meeting.

274. PROCEDURAL BUSINESS

274A. Declarations of Substitutes

274.1 There were no declarations of substitutes.

274B. Declarations of Interest

274.2 There were no declarations of interest.

274C. Exclusion of Press and Public

274.3 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.

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

275. MINUTES

- 275.1 **RESOLVED** – That the minutes of the meetings held on 9 September PM, 12 September AM and 14 September PM be approved and signed by the Chair as a correct record of the proceedings.

276. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – THE CAXTON ARMS

- 276.1 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 Caxton Arms, North Gardens, Brighton (see Minute Book).
- 276.2 The Licensing Officer outlined the details of the application, which sought a variation of hours for the provision of alcohol and an extension of opening hours. With the Chair's agreement, he 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.
- 276.3 The Licensing Officer noted that 4 representations from interested parties had been received, concerning the negative impact that of extending opening hours on noise levels and public nuisance. He also stated that there were no representations from the Responsible Authorities in respect of the application, and drew the Panel's attention to the additional steps that would be taken as outlined in the operating schedule.
- 276.4 The Chair noted that there were no questions for the Licensing Officer and therefore asked the interested parties to put forward their representations.
- 276.5 Mrs. Anderson stated that she believed there would be an increase in public nuisance in the area and noted that recent events had been reported in the paper. She stated that people leaving at closing time caused a disturbance and this would only be extended later into the night.
- 276.6 Ms. Mattock stated that the pub was in a narrow residential road and she felt that the later opening hours were likely to result in increased noise levels and disturbance to residents, which was unfair.
- 276.7 The Licensing Officer informed the Interested Parties that they or other residents would be able to request a review of the licence, should it be granted, on the basis that either the conditions attached or the licensing objectives were not being met.

- 276.8 Panel Members queried whether the disturbance from customers could be attributed to the premises or others coming from the nearby establishments. Members also queried whether there was a problem with noise during opening hours or only at the close of business.
- 276.9 The Interested Parties confirmed that there was not an issue in respect of noise levels during opening hours. However, it became a problem at the close of business and whilst some people may walk through the area, the majority left the premises and either stood nearby or made their way home and it was these people who caused the noise etc.
- 276.10 The Chair noted that there were no further questions and invited the Applicant to put forward their representations.
- 276.11 The applicant stated that they were not likely to use the extended opening hours on a regular basis, but rather for special occasions. On the whole they did not anticipate any changes to how things operated currently. They did try to ensure that customers respected the needs of residents and would ensure that notices were put up to highlight this. However, it was difficult to control people's actions once they had left the establishment, and whilst they would encourage them to move on, it was not always easy to do so.
- 276.12 The Panel Members queried how the rear courtyard could be reached and at what times it was cleared at night. Members also sought clarification with regard to the playing of music during the wind-down period and at what time doors and windows were closed.
- 276.13 The applicant stated that the courtyard area could be accessed by either of the bar areas and was usually cleared at 23.20 at weekends and between 22.30 and 23.00hrs on week nights. They also stated that the music was switched off at 23.15 to encourage people to drink up and leave. The applicant stated that there were no open windows at the front of the building and those at the rear, along with the doors were closed by 23.20hrs during the summer months.
- 276.14 The Chair noted that the interested parties had no questions and that they had held discussions with the applicant in respect of their concerns. She therefore asked the various parties to sum-up.
- 276.15 The Licensing Officer stated that the application was before the Panel for consideration but sought clarification with regard to the playing of music as it was not clear from table 2.3 in the report.
- 276.16 The Legal Officer stated that the implication was that only

background music could be played and a further application would have to be submitted for any change to be approved.

276.17 The applicant confirmed that the intention was to only have background music.

276.18 The interested parties stated that they felt the extension of opening hours was inappropriate for the area and would result in increased noise disturbance for the local residents.

276.19 The applicant stated that he appreciated the concern raised by the residents and wished to reassure them that the intention was to only use the extended hours occasionally. He therefore hoped that the application would be approved.

276.20 The Chair then adjourned the meeting at 14.30 and the Panel withdrew to consider its decision.

276.21 The Chair then reconvened the meeting at 14.40 and informed the various parties of the Panel's decision.

276.22 **RESOLVED** – That the application for a variation to the licence for The Caxton Arms, North Gardens, Brighton, as detailed in the report be granted with the following conditions:

(i) The outside courtyard to be cleared and closed by 23.30hrs;

(ii) All doors and windows to be closed by 23.00hrs;

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

276.23 The Chair noted that the applicant had given a commitment to erect signs at all exits requesting that the public respect the needs of local residents and to leave the premises and the area quietly and that there would be no regulated entertainment under the current licence.

277.24 **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.

277.25 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.

277. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – THE LECTERN

- 277.1 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 Lectern, Pelham Terrace, Brighton (see Minute Book).
- 277.2 The Licensing Officer outlined the details of the application, which sought a variation of hours for the provision of alcohol, to permit the hours of regulated entertainment and to vary/remove conditions in existing licences. With the Chair’s agreement, he 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.
- 277.3 The Licensing Officer noted that 2 representations from interested parties had been received, concerning the negative impact of extending opening hours, noise levels and possible public nuisance. He also stated that there were no representations from the Responsible Authorities in respect of the application. However, the Fire Authority had asked that the capacity levels set for the combined use of both areas be retained for reasons of public safety. Should there be a request to remove the condition, this should not be permitted without an adequate risk assessment being undertaken.
- 277.4 Councillor Watkins queried whether it would be possible for the applicant to apply for a variation to the licence should they reach an agreement with the Fire Authority over the capacity levels etc.
- 277.5 The Licensing Officer stated that it would be possible to submit an application to vary the licence should an agreement be reached with the Fire Authority, but in the meantime the Panel should be minded not to remove the condition.
- 277.6 The Chair noted that there were no further questions for the Licensing Officer and that there were no interested parties present. She therefore asked the applicant to put forward their representations.
- 277.7 The applicant stated that they had intended to use the two areas as independent venues, so that different functions could be held simultaneously. They had been in discussion with the local Fire Officer and a risk assessment had been undertaken.
- 277.8 The Licensing Officer stated that it appeared the Fire Authority’s request was being actioned and therefore it could be possible to seek confirmation of the Fire Authority’s position and changes to the licence could then be implemented accordingly.

- 277.9 The applicant stated that he had not been approached by any of the objectors directly although he would have been willing to discuss their concerns with them. He acknowledged that there had been a noise problem in 2002 but had since installed sound insulation, which had, resolved the situation. With regard to the use of the upstairs venue, door staff were employed and they would check to see if the fire doors were kept closed. The windows in the downstairs area could not be opened and air conditioning had been installed to prevent the need to open the doors.
- 277.10 The Panel Members queried whether there was any air conditioning in the upstairs area and how often the beer garden was used and to what time at night. Panel Members also queried whether there would be any difficulty in closing the beer garden at 20.00hrs.
- 277.11 The applicant stated that air conditioning was due to be installed in the upstairs area in the following week and that the beer garden was usually cleared between 19.30 and 20.00hrs as he had a baby daughter who's bedroom overlooked the beer garden. He was happy for the garden to be closed at 20.00hrs but had reservations in respect of the possible changes to smoking in pubs, which may result in him wanting to allow access to the garden for smokers.
- 277.12 The Chair noted that there were no further questions and therefore asked the various parties to sum-up.
- 277.13 The Licensing Officer stated that the noise complaint in 2002 had been dealt with and with air conditioning units installed and to be effective, all doors and windows would need to be kept closed. The application was therefore before the Panel for consideration.
- 277.14 The applicant stated that he believed the venue had improved and that he was willing to discuss any concerns with local residents and hoped that the Panel would approve the application.
- 277.15 The Chair then adjourned the meeting at 14.55 and the Panel withdrew from the meeting to consider its decision.
- 277.16 The Chair reconvened the meeting at 15.05pm and informed the various parties of the Panel's decision.
- 277.17 **RESOLVED –**
- (1) That in having regard to public safety, the Licensee should ensure that an adequate risk assessment is carried out in conjunction with the Fire Authority and to the satisfaction of the Licensing Authority;

(2) That the application for a variation to the licence for The Lectern, Pelham Terrace, Brighton, as detailed in the report be granted, but shall not take effect until such risk assessment (as detailed in 1 above), is approved by the Licensing Authority, with the following conditions:

(i) The outside beer garden to be cleared and closed by 23.30hrs;

(ii) All external doors and windows to be closed by 23.30hrs;

(iii) The Licensee shall ensure that noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties.

277.18 **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.

277.19 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.

278. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – UNION

278.1 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 Union, 187-192 King's Road Arches, Brighton (see Minute Book).

278.2 The Licensing Officer outlined the details of the application, which sought a variation of hours for the provision of alcohol, to permit the hours of regulated entertainment and to vary/remove conditions in existing licences. With the Chair's agreement, he 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.

278.3 The Licensing Officer noted that 7 representations from local businesses had been received, concerning the negative impact of extending opening hours, noise levels, possible public nuisance, crime and disorder, public safety and the protection of children from harm. He also stated that there had been an objection from the Police but this had subsequently been withdrawn. There were no representations from the Responsible Authorities in respect of the application.

- 278.4 The Chair noted that there were no questions for the Licensing Officer and that there were no interested parties present. She therefore asked the applicant to put forward their representations.
- 278.5 The applicant stated that the premises had been purchased recently and refurbished and given a new name, having formerly been the Zap Club, which had been in operation for approximately 20 years as a night-club venue. He noted that of the 7 letters of objection, 6 were in a similar vein. In regard to the use of the beach area by families during the day, he could not see any significance to the operation of the night-club. He also suggested that the area had improved significantly over the last 20 years because of the investment put in by the local night-clubs. In terms of public disorder matters, he believed this was dealt with by the Licensing Policy, in that licence holders were required to manage behave within their establishments and any instances outside would be dealt with by the police. In conclusion he noted that the Police were satisfied with the intended operation of the night-club.
- 278.6 The Panel Members queried whether there were any outside areas that could be used by patrons and why it was intended to remain open until 05.00am when alcohol could only be provided until 23.00hrs.
- 278.7 The applicant stated that there were no outside areas as it was a totally enclosed venue. The venue did have a special hours certificate which enabled alcohol to be served until 02.00am and agreement had been reached with the Police that standard opening hours would be from 10.00am to 06.00hrs, with 7 days notice given for any extension to the Police and the Licensing Authority and subject to their consent.
- 278.8 The Chair noted that there were no further questions and invited the various parties to sum-up.
- 278.9 The Licensing Officer noted that agreement had been reached with the Police and that the application was before the Panel for consideration.
- 278.10 The applicant stated that they had no further comments to add to their application.
- 278.11 The Chair noted that the Panel were in agreement and therefore did not need to withdraw from the meeting.
- 278.12 **RESOLVED** – That the application for a variation for the premises licence already granted under “grandfather rights” to the UNION, 187-192 Kings Road Arches, Brighton be granted.

Prior to the consideration of the following items, the Chair adjourned the meeting for a refreshment break at 15.20hrs.

The Chair reconvened the meeting at 15.25hrs.

279. APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – OCEAN ROOMS

- 279.1 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 Ocean Rooms, 1-2 Morley Street, Brighton (see Minute Book).
- 279.2 The Licensing Officer outlined the details of the application, which sought a variation of hours for the provision of alcohol, to extend the hours of regulated entertainment and to remove certain conditions/restrictions on existing licences. With the Chair's agreement, he 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.
- 279.3 The Licensing Officer noted that 1 representation from an interested party had been received, concerning the negative impact of extending opening hours, noise levels and possible public nuisance. He also stated that there were no representations from the Responsible Authorities in respect of the application, but that there was one complaint under investigation by the Environmental Health team. He noted that there were some outstanding works to be completed and if the Panel were minded, the completion of these could be included as a condition on the licence.
- 279.4 The Chair noted that there were no questions for the Licensing Officer and therefore asked the interested party to put forward their representations.
- 279.5 Mr. Piwek stated that his flat was adjacent to the venue and overlooked the part of the club. There was considerable noise, which could be heard, and vibration from the music, which affected his own quality of life. He had sought to reduce the problem by installing double-glazing but this had had little effect. He believed that entry into the club tended to be concentrated to particular times, primarily between 22.30 and 0.00hrs, with resultant queues generating a large amount of noise. With the Chair's and the Applicant's agreement, he circulated photos to support this. Mr. Piwek stated that he felt any extension to opening hours would only result in further numbers seeking access later into the night and

therefore directly affecting his sleep patterns and quality of life. He also stated that he had held discussions with Mr. Gill, in order to seek to resolve his concerns.

- 279.6 Panel Members queried whether Mr. Piwek's flat backed directly onto the club and at what time he believed the doors and windows were closed.
- 279.7 Mr. Piwek stated that there was a small gap between the two buildings, although following extensions, the flats below did have adjoining walls. With regard to the closing of doors and windows he felt this was usually between 02.00 and 02.30hrs.
- 279.8 The Chair noted that there were no further questions and asked the applicant to put forward their representations.
- 279.9 Mr. Simmonds stated that he was representing the applicant and that the club had a public entertainment licence, which ran until 03.00hrs during the week and 04.00hrs at weekends. The extension requested did not go much beyond that already in operation. He noted that there had been some extensions to the flats and that Mr. Gill owned the ground floor flat, which was used by staff. He stated that the windows were kept closed during the evenings. The actual premises had been refurbished with improvements made to the entrance and exits, including a double lobby to reduce the noise levels. Other works had been identified as a result of objections to the application and these were in hand, e.g. the base speakers had been relocated. A noise limiter had also been installed and an audio limiter set on the top floor and Mr. Gill was willing to set these at agreed levels with the Licensing Authority and to discuss any concerns with local residents with a view to resolving any problems. Mr. Simmonds suggested that the problem of the queues would be reduced with the extended opening hours as this would enable patrons to arrive over a longer period of time, although he acknowledged that this would have to be a case of waiting to see how things developed.
- 279.10 Mr. Simmonds stated that there was no intention to use the extra opening hours every night but to see what demand was like. The extension to Sundays was to enable the provision of breakfasts to those customers who had to wait for public transport to begin operating and would be an experiment to see if demand justified opening. He also stated that Mr. Gill was happy to include a condition that the works identified should be completed prior to the new licence taking effect.

- 279.11 The Panel Members queried whether entry to the club was restricted to a set time and whether the extensions to the flats had resulted in them adjoining the club. Members also queried whether there were any options in respect of diverting the queues.
- 279.12 Mr. Gill stated that currently no entry was allowed after 01.00hrs but the variation would remove the restriction, so it was intended to close the doors and have them staffed to enable access and egress. He also confirmed that the extensions to the flats had resulted in them having adjoining walls with the club. He was aware the problem with the queues but any alteration to how they were directed would result in them going across a busy road.
- 279.13 The Chair noted that there were no further questions and therefore asked the various parties to sum-up.
- 279.14 The Licensing Officer stated that the Panel were able to consider the question of public nuisance and disorder in determining the application, and that under the new Act the Police had the power to close a premises on the grounds of public disorder and public safety.
- 279.15 Mr. Piwek stated that concerns remained with regard to the extension of hours and the intrusion of noise for himself and other residents, which would go later into the night/early hours of the morning.
- 279.16 Mr. Simmonds stated that the applicant intended to resolve the outstanding issue with the Environmental Health team and that this could be included as a condition to the licence. He believed that the extended hours would result in the queues being reduced and thereby the associated noise problems and his client would continue to seek to resolve any difficulties raised by the residents. He therefore felt that the Panel should approve the application.
- 279.17 The Chair then adjourned the meeting at 15.55hrs and the Panel withdrew to consider its decision.
- 279.18 The Chair reconvened the meeting at 16.05hrs and informed the various parties of the Panel's decision.
- 279.19 **RESOLVED** – That the application for a variation to the licence for the Ocean Rooms, 1-2 Morley Street, Brighton, as detailed in the report be granted with the following conditions as detailed below and subject to all outstanding noise control measures are to be completed to the satisfaction of the Licensing Authority prior to the variation coming into effect:

(i) All external doors and windows to be kept closed during permitted hours of operation;

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

(iii) 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.

279.20 **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.

279.21 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.

279(a). APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – SHAKESPEARE HEAD

279.1 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 Shakespeare Head, 215 Ditchling Road, Brighton (see Minute Book).

279.2 The Licensing Officer outlined the details of the application, which sought a variation of hours for the provision of alcohol, to permit live music, recorded music, karaoke and DJs, television and DVD (not films) and dancing. With the Chair’s agreement, he 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.

279.3 The Licensing Officer noted that 1 representation from an interested party and a petition signed by 16 residents had been received, concerning the negative impact of extending opening hours on late night noise levels and possible crime and disorder. He also stated that there were no representations from the Responsible Authorities in respect of the application.

279.4 The Chair noted that there were no questions for the Licensing Officer and therefore asked the interested party to put forward their representations.

- 279.5 Mr. Eaton stated that he was also representing the residents from Spring Street, many of who had signed the petition referred to by the Licensing Officer. He believed that it was primarily a residential area with narrow roads and the noise levels from the premises were already a problem. He also noted that a number of benches were actually sited in Spring Street itself and these were a potential for public nuisance, especially if the extended hours were granted. It was likely that the benches would be vandalised and that broken glass and litter would result from their use, as well as people being encouraged to use them after closing. He noted that the upstairs function room would directly overlook properties opposite and therefore enable customers to see into those properties. Mr. Eaton suggested that it would help if the doors and windows were kept shut after 19.00hrs and blinds/curtains were used in the function room. As a residential area, he believed the premises had an obligation to maintain the that environment, and therefore drinking should not be allowed outside after 23.00hrs and door supervisors should be employed to keep the entrance closed and customers aware of the need to respect the neighbourhood.
- 279.6 The Panel Members queried whether the benches were subject to a separate licence, although the sale of alcohol was restricted to the premises licence.
- 279.7 The applicant's representative confirmed that a street trading licence had been obtained for the siting of the benches on the highway and this had recently been renewed with the Licensing Authority.
- 279.8 The Panel Members queried whether the residents suffered from noise emanating directly from the premises itself.
- 279.9 Mr. Eaton stated that he suffered from noise disturbance occasionally, but was aware that other residents had a more regular problem with noise from the pub.
- 279.10 The Chair noted that there were no other questions and therefore invited the applicant to put forward their representations.
- 279.11 Mr. Simmonds stated that he was representing the applicant and stated that the application sought a small extension to the hours of operation and alteration to some facilities that could be offered. The function room had been in use for over 12 years and was fully licensed, but because of the new regulations it had had to be included in the application. There was no intention to expand the use of the function room but simply to enable it to be used as a venue for live and recorded music etc. He stated that the applicants were more than happy to look at ensuring the use of the function

room did not impact of residents' lives. He stated that the applicants were involved in the community and sought to support it as much as possible. There had been problems with outside tables and chairs in the past, however new ones had been installed, which could not be easily removed, and there had been no incidents. He also noted that the applicants were willing to ensure that all doors and windows were closed at 23.00hrs and that outside drinking ceased at 23.00hrs. They would also endeavour to ensure the entrance door remained closed as this did open directly onto the street. Finally he noted that there had been no complaints from the Police or other responsible authorities and did not accept that public nuisance matters could be attributed to the pub's customers.

- 279.12 The Panel Members queried the numbers that could be accommodated in the function room and whether it had a noise limiter, as well as the overall capacity of the pub. Members also asked whether it would be possible to control the noise level from any DJs that played in the venue.
- 279.13 Mr. Simmonds stated that the function room had been used for over 12 years without any complaints and could hold up to 32 people. There was no intention to alter its use and its size did not warrant the need for a noise limiter. The pub itself could hold a maximum of 60 people but this would be very crowded. He also confirmed that the noise levels from any DJs would be restricted.
- 279.14 Mr. Eaton queried how often live music would be played and whether the applicants would consider closing the windows of the function room earlier than 23.00hrs. He also queried at what time the outside area would be cleared.
- 279.15 The applicants stated that live music would be on odd occasions as demand required and they would be happy to ensure the windows were closed by 23.00hrs and to use blinds/curtains if required, but would always listen to any concerns raised by residents at the time of use. They envisaged the outside area being cleared from 22.45 to 23.00hrs.
- 279.16 The Chair noted that there were no further questions and invited the various parties to sum-up.
- 279.17 The Licensing Officer noted that the applicant had offered to close doors and windows by 23.00hrs and to clear the outside area by 23.00hrs and these aspects could be included as conditions. He also noted that any problems of public nuisance and noise could be dealt with by raising concerns separately with the Police and the Environmental Health team. He also noted that the function room had only been used for private functions and this could be listed as a

condition should the Panel wish to do so.

- 279.18 Mr Eaton stated that it was a residential area and in view of the noise intrusion from the pub and outside area already experienced by residents, the Panel should consider that the current hours were sufficient and thereby not allow the variation.
- 279.19 Mr. Simmonds stated that the function room had been used for a number of years with occasional extensions and no complaints to date. The applicants were more than willing to listen to concerns and work with their neighbours to ensure they were not disturbed. He had already indicated their willingness to accept conditions in respect of doors and windows and the outside area, and therefore believed that the application should be approved.
- 279.20 The Chair then adjourned the meeting at 16.45 and the Panel withdrew to consider its decision.
- 279.21 The Chair reconvened the meeting at 16.55 and informed the various parties of the Panel's decision.
- 279.22 **RESOLVED** – That the application for a variation to the licence for the Shakespeare Head, 215 Ditchling Road, Brighton, as detailed in the report be granted with the following conditions:
- (i) All external doors and windows to be closed by 23.00hrs except for access and egress;
 - (ii) The outside drinking area/tables to be cleared and closed by 23.00hrs;
 - (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) 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.
- 279.23 The Chair also welcomed the applicants offer to work closely with their neighbours in respect of the use of the function room and any impact of their properties.
- 279.24 **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.
- 279.25 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.

279(b) APPLICATION FOR A VARIATION UNDER TRANSITIONAL ARRANGEMENTS OF THE LICENSING ACT 2003 – EXCHANGE

279.26 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 Exchange, 8 Goldstone Street, Hove (see Minute Book).

279.27 The Licensing Officer outlined the details of the application, which sought a variation of hours for the provision of alcohol, to permit regulated entertainment and late night refreshment and to keep the premises open for 30 minutes after the cessation of the sale of alcohol. With the Chair's agreement, he 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.

279.28 The Licensing Officer noted that over 30 representations from interested parties had been received, concerning the negative impact of extending opening hours on noise and public disturbance. He stated that there were no representations from the Responsible Authorities in respect of the application. He also noted that environmental health records showed that 3 complaints about noise from the premises had been made between 2000 and 2002, and that nuisance had not been substantiated. He stated that changes had been put forward by the applicant to assist the concerns raised in respect of possible public nuisance.

279.29 The Chair noted that there were no questions for the Licensing Officer and therefore asked the interested party to put forward their representations.

279.30 Ms. Gowing noted that the application had been due to be considered at Monday's Licensing Panel meeting, but had been deferred to the current Panel meeting because of a failure by the applicant to advertise their application properly. This meant that a number of residents were now unable to attend the meeting, having taken time off to attend on Monday. She had lived in the vicinity for 5 months and noise from people either entering or leaving the pub had woken her on a number of occasions and regularly through the night. She had accepted that noise would be generated until 23.30hrs but did not feel that any continued disturbance into the later hours was fair on residents. She has also been able to hear various televised sporting events during the evening being shown in the pub

and therefore questioned the need for sound-proofing. She believed that the building should be double-glazed and that doors and windows should be kept closed. She was also concerned about the fact that customers tended to congregate outside the pub to chat and use mobile phones rather than move on or remain inside.

- 279.31 Ms. Minter stated that it was a large pub, which attracted a large number of people from outside of the local area, especially when sporting events were being shown. She stated that there had been an after hours party which had caused a disturbance and any extension would see a repeat of such disturbances. She had previously completed a noise diary and was surprised it was not on record. She believed that the proposed extension would lead to more people coming to the pub and a greater chance of public disorder resulting from that. There were already regular incidents of fights breaking out and damage being caused to neighbouring property. She felt that it was inappropriate for a residential area, especially when there were plenty of city centre venues and it was very unlikely that any concerns about noise levels would be addressed.
- 279.32 Ms. Gibson read out a statement on behalf of a neighbour who had been unable to attend and which stated that the Licensing Authority had an obligation to residents to ensure their social well-being. She did not believe that the approval of the application would meet that obligation and therefore asked that it be refused. Her quality of life had been severely disrupted by the pub and the noise that was generated from it, resulting in her suffering from sleep deprivation and having to face regular incidents of verbal abuse from customers leaving the premises. She also stated that there were a number of young families living in the area and the Licensing Act gave a clear commitment to the prevention of harm to children and this should be taken into account. She therefore hoped that the application would be refused.
- 279.33 Ms. Gibson stated that she had lived in the area for the last 6.5 years, during which it had been an ordinary pub serving the local community. However, this had altered with large numbers of people coming from outside the area and having no regard for the local residents' needs when leaving the premises.
- 279.34 Mr. Walker stated that he was a parent with two small children, and they suffered from noise and nuisance.
- 279.35 Mrs. Moore stated that she had suffered from a lack of sleep as a result of the noise and disturbances from the pub over the last 4 years. She had in fact resorted to staying at friends on a Friday and Saturday night during the summer simply to be able to relax of an

evening. The manager had previously apologised for disturbances and damage caused by customers but did not seem able to control matters effectively.

- 279.36 The Panel Members noted that reference had been made to an air conditioning unit having to be turned off between 22.00 and 06.00hrs at a nearby newsagent and queried how this had occurred.
- 279.37 The interested parties stated that the unit had been installed but that following complaints Environmental Health officers had set the requirement for it to be switched off during the night.
- 279.38 The applicant's representative queried how often sporting events were shown at the pub.
- 279.39 The interested parties stated that during the recent Lions' Tour it had been four weekends in a row and football was shown weekly.
- 279.40 The applicant's representative queried whether the residents regarded the pub as being a night club and what their views were with regard to the fact that a number of the letters of objection were very similar.
- 279.41 The interested parties stated that in having regard to the application there was an implication that it would be a night club and no comment was given in respect to some letters being of a similar nature.
- 279.42 The Chair noted that there were no further questions and invited the applicant to put forward their representations.
- 279.43 The applicant's representative stated that the pub had been built at the same time as the residential properties and served the local area. The variation requested was a modest one to enable the applicant to take advantage of the new regulations and to see if there was a sufficient demand to remain open. There was no intention to create a night club, but reference had to be made to dancing under the new regulations. It was a well-run establishment and the operating company supported the manager. She could not be held responsible for the actions of people outside of the venue, although every effort was made to encourage them to move on quietly. He accepted that the majority of problems expressed related to people leaving at drinking-up time and suggested that this might be eased with the extension in hours, as people would be able to stagger their times of leaving. He also pointed out that there were other establishments in the nearby vicinity and problems of noise and damages could result from customers returning home from these. He believed the majority of customers were local residents and not from

outside the area and they were likely to be the remaining customers at night as others would move on to different venues. He accepted that the pub was usually very busy during the earlier hours when sporting events were being shown and this was something that could be looked at in terms of noise issues.

- 279.44 The applicant's representative stated that the applicant was willing to install a noise limiter and to clear the outside areas by 22.30hrs. During live music nights doors and windows would be closed by 21.00hrs and all live music would cease at 22.30hrs. He therefore hoped that the Panel would be minded to approve what was a minor adjustment to the current licence.
- 279.45 The Panel Members queried whether consideration had been given to employing door supervisors and whether it was felt that the extension to hours would encourage people to stay on rather than leave over a period of time. Members also queried how many people came into the pub at night and whether there was a lobby area at the entrance to the premises.
- 279.46 The applicant stated that discussions had been held with the police and it was not felt necessary to have door staff. During sporting events around 200 people could be using the pub, with some eating and others there to watch the football etc. The majority of those coming to watch the event would leave by around 21.30hrs and they did not envisage any change to this. Those remaining would be local customers and with the extension their dispersal could be more varied.
- 279.47 The interested parties queried the need to refer to dancing in the application if it was not going to be a night club and what action was going to be taken to address the noise problem. They also queried the evidence to show that the majority of customers were not from outside the area and how they would be encouraged to leave quietly etc.
- 279.48 The applicants stated that the new regulations meant that dancing had to be mentioned in order to cover any spontaneous dancing or movement that could be construed as dancing. Many customers used taxis or cars because they were going elsewhere after eating or watching the sport and it was intended staff would stand on the door as people left to remind them to leave quietly.
- 279.49 The interested parties suggested that if the application was approved it would in effect enable the pub to become a night club and queried what guarantee could be given to indicate that it would not be used in such a way.

- 279.50 The applicants representative stated that there was no intention to run the premises as a night club and the interested parties always had the option to call for a review of the licence if they felt that it and any conditions attached were not being fulfilled.
- 279.51 The Chair noted that there were no further questions and invited the various parties to sum-up.
- 279.52 The Licensing Officer stated that concerns had been raised both at the meeting and in the letters of objection with regard to the negative impact of public nuisance. He drew the Panel's attention to the National Guidance that had been circulated to Licensing Authorities with the new Regulations and suggested that this could be taken into account during their deliberations. He also noted that Environmental Health officers were able to use the Environmental Protection Act 1996 if matters were raised with them and under the new regulations the Police had the ability to close a premises for 24 hours should there be problems of noise nuisance. With regard to noise nuisance he pointed out that the Panel was able to attach conditions to seek to take account of the representations made and the most sensitive periods identified by the interested parties. He also noted that any conditions in respect of public nuisance had to relate to those areas that came under the direct control of the licence holder.
- 279.53 The interested parties stated that the pub was sited in the middle of a residential area, consisting of Victorian terraced houses and could not be regarded as a town centre pub. A total of 69 representations had been made, with a considerable number of significant concerns highlighted, the principal ones being public nuisance and noise levels. They noted that the European Convention for Human Rights contained Articles to protect private life and stated that if the hours of opening were extended then they would impinge directly on the private life of the residents. The request for live and amplified music and karaoke was a concern and the showing of televised sporting events had affected all residents greatly. The pub was not properly sound-proofed and it was questionable as to whether it could be. They believed that incidents of crime and disorder could be attributed to customers leaving the pub and any extension was likely to see such incidents increase later into the night/early hours. The Government's intention under the regulations was not to provide for extensions of opening hours to the detriment of residents' lives; public interest had to be taken into consideration first. Therefore it was felt that the Panel should reject the application.
- 279.54 The applicant's representative acknowledged that there had been 69 representations made against the application but suggested that there was no indication as to how many were in favour of it. He also

suggested that the reference to the Human Rights Act had little relevance to the matter before the Panel. The application was being made with regard to the new regulations and seeking the opportunity to take advantage of these in respect of meeting the demands of the customers. The applicant had offered to accept a number of conditions and would abide by any others that the Panel may wish to include. He noted that there was always an opportunity for interested parties to seek a review of the licence as well as using other mechanisms to ensure the premises operated correctly. He therefore suggested that the application should be approved.

279.55 The Chair then adjourned the meeting at 18.20hrs and the Panel withdrew to consider its decision.

279.56 The Chair reconvened the meeting at 19.05hrs and informed the various parties of the Panel's decision.

279.57 The Chair stated that the Panel had reached its decision having regard to the Council's Statement of Licensing Policy, the 4 Licensing Objectives, National Guidance and in particular in respect of possible public nuisance. The Panel had listened very carefully to the representations from both parties. They had heard accounts from residents about noise emanating from the premises, and with regard to noise and disturbance caused by people leaving the premises at night. Therefore, the Panel considers that the following conditions should be attached to the licence in justifying the application.

279.58 **RESOLVED** – That the application for a variation to the licence for the Exchange, 8 Goldstone Street, Hove, as detailed in the report be granted with the following conditions:

(i) The hours for the sale of alcohol be amended to 10.00am to 00.00hrs Mondays to Sundays with an additional half an hour drinking up time;

(ii) All live music to cease at 22.30hrs;

(iii) All other regulated entertainment to cease at 23.00hrs, except for recorded background music which will cease at 00.00hrs;

(iv) All external doors and windows to be closed by 21.00hrs except for access and egress;

(v) 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 by the premises;

(vi) The Licensee must ensure that excessive noise does not come

from the premises, such as to cause people in the neighbourhood to be unreasonably disturbed.

279.59 **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.

279.60 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 19.10pm

Signed

Chair

Dated this

day of

2005