

BRIGHTON & HOVE CITY COUNCIL
LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

10.00am 22 JULY 2020

VIRTUAL MEETING - SKYPE

MINUTES

Present: Councillor ; Appich, O'Quinn and Simson

Officers: Becky Pratley (Technical Officer), Rebecca Siddell (Lawyer), Gregory Weaver (Democratic Services Officer)

PART ONE

10 TO APPOINT A CHAIR FOR THE MEETING

10.1 Councillor O'Quinn was appointed Chair for the meeting.

11 PROCEDURAL BUSINESS

11a Declaration of Substitutes

11.1 There were none.

11b Declarations of Interest

11.2 There were none.

11c Exclusion of the Press and Public

11.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

11.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of Item X onwards.

12 THE ROTTINGDEAN LOUNGE BAR LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

12.1 The Panel considered a report of the Executive Director of Neighbourhoods, Communities & Housing in relation to an application for a Variation of Premises Licence under the Licensing Act for The Rottingdean Club, 89 High Street, Rottingdean. Present at the hearing were: Becky Pratley (Technical Officer), Phillip Sherrington (DPS Holder and Applicant), Leo Day (Golden Lion Representative), Rebecca Siddell (Legal Advisor), Gregory Weaver (Democratic Services Officer).

12.2 The Licensing Officer gave the following statement:

“This hearing is for a variation application for the Premises Licence issued to The Rottingdean Lounge Bar previously known as The Rottingdean Club, 89 High Street, Rottingdean.

The variation requests to;

Remove all embedded conditions relating to members club but keep terms involving restrictions on the use of the garden.

Therefore, removing the following conditions, as detailed on page 6 of today’s agenda, which are;

Club Premises Conditions from annex 1 embedded conditions;

1. That there shall be no sales of intoxicating liquor other than to members of the club and their bona fide guests.
2. Persons applying for membership on and between a Sunday through to Thursday will be granted instant access to the premises. Persons applying for membership on a Friday and Saturday will be granted access from the following Monday.
3. That intoxicating liquor shall not be sold for consumption off the premises other than to members.
4. That the club shall keep and maintain and have available for inspection at all reasonable times proper books showing the list of members and candidates for membership from time to time and of all bona fide guests entertained by members.
Annex 2

1. Members and bona fide guests will be allowed entry.
 2. Any inappropriate behaviour will result in expulsion from membership
- There is no change to the hours of the licence being requested by this variation application. The current permitted hours can be found summarised in the table on page 6 of today’s agenda as well as from page 21 which contains the current licence in full.

The opening hours of the premises are Monday - Sunday: 10.00am until half past midnight. On Christmas Eve: 10.00am until 1.30am and on New Year’s Eve: 10.00am until 2.30am. The terminal hour for alcohol is half an hour before these times, so midnight normally, 1am on Christmas Eve and 2am on New Years Eve.

The premises does not fall within Cumulative Impact area or the Special Stress Area.

Five representations were received during the consultation period, two representations against the application and three representations supporting the application. They were received from local residents, a local business and a local Councillor.

The representations received related to the licensing objectives of, the Prevention of Crime & Disorder, Public Safety, the Prevention of Public Nuisance and the Protection of Children from Harm.

Representations are attached at Appendix C, from page 31-34 of today's agenda.

After discussions between the applicant and Sussex Police, an agreement was made which included conditions relating to the Prevention of Crime and Disorder. This agreement can be found on pages 37 and 38 of today's agenda.

Addendum one, contains two further supporting letters for the application and the Premises Licence Holders submission for today's hearing.

As the panel are aware, the adoption of the Matrix approach to licensing decisions found in the statement of licensing policy and this agenda, includes a table with provisions for a terminal hour for all classes of license premises in a particular area, recognising the diverse operations and different risks presented by those premises. This can be found on page 8 of the agenda today.

This premises does not fall within our cumulative impact area or the special stress area. It falls in the 'Other Areas' category of the matrix and as such the matrix would allow a licence for a pub until midnight.

The current Premises Licence allows the sale of alcohol until midnight already. It is important for the committee to take in to account the notes that accompany the Matrix, particularly that each application will be given individual consideration on its own merits."

Questions to the Licensing Officer

- 12.3 In response to Councillor O'Quinn, the Licensing Officer gave the timeline of when the licence came in to effect.
- 12.4 In response to Councillor Simson, the Licensing Officer stated that a conditions around taxis being called for customers could be considered.

Representation from Leo Day

12.5 Mr Leo Day addressed the panel and gave the following representation:

- It was stated that there was concern with regard to the premises licence.
- It was noted that while the premises was not within the cumulative impact zone, it was in a densely populated area of houses and that concerns had arisen of the potential of more accidents as a result of the increased footfall on narrow pavements.

- It was stated that the owners had bought the premises knowing that it was a member's only club and that the application showed that this was a loosely regulated venue.
- It was suggested that in 2018, Sussex Police did not want to vary a licence to a full public house.
- Concerns were raised as to whether the existing membership had been consulted.

Questions to Mr Day

- 12.6 In response to Councillor Simson, Mr Day stated that concerns would be better allayed if food was offered however this was not the case with the current status of the venue and that the majority of pubs offered food though were not food led however licences often ensured that they had to provide these services.

Opening statement from Phillip Sherrington (Applicant)

- 12.7 Mr Sherrington addressed the panel and stated the following:

- It was stated that the venue did operate a kitchen 7 days a week however this was a wet led venue.
- There was a deal in place with the bakery close by.
- Welcomed a stipulation for food.
- It was stated that in 2017 the lessee had a full licence but chose to run as a club. The owners realised that they had been breaking the rules of the licence conditions and as a result had to close, remaining open via use of Temporary Event Notices.
- It was stated that CCTV was supplied.
- It was stressed that the applicant was not attempting to remove the element of membership rather than any overarching changes due to the change in demographics in the area.

Questions for Mr Sherrington

- 12.8 In response to Councillor O'Quinn, Mr Sherrington stated that there was full use of the patio. It was agreed that there would be no parties.
- 12.9 In response to Councillor Appich, Mr Sherrington stated that around 10 or 11 TENs had taken place over the last 3 years, it was noted that these were to hold parties in the garden which included bands and music while also allowing members of the public to walk in off the streets. It was stressed that once it was clear that the venue was not a pub, work was started to transition to one. It was clarified that Mr Sherrington aimed to prove that this was a viable business and that there had been full compliance with all regulations and that best practice was achieved which was reflected in the fact that there had been no contact from police as a result of complaints or noise abatement orders.
- 12.10 In response to Councillor Simson, Mr Sherrington stated that the rear garden was used and that he was willing to agree to a condition stipulating that no members of the public were to drink in front of the premises.

Summaries and Decision

12.11 The Licensing Officer addressed the panel and stated the following:

“This hearing is for a variation application for the Premises Licence issued to The Rottingdean Lounge Bar previously known as The Rottingdean Club, 89 High Street, Rottingdean.

The variation requests to;

Remove all embedded conditions relating to members club but keep terms involving restrictions on the use of the garden.

Conditions proposed to Annex 2 found at pages 37 and 38 of today’s agenda, were agreed with Sussex Police who are the experts and lead on the Prevention of Crime and Disorder Licensing Objective.

You have heard from all the parties present.

Licensing Guidance states that: In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- the Guidance;
- its own statement of licensing policy

Licensing guidance states “Need” is not a matter for the licensing authority to consider in discharging licensing functions.

It is important to note that each application will be given individual consideration on its own merits.

If the Panel decide to grant the application then any conditions added to the licence to meet the Licensing Objectives should be clear, precise and enforceable.

Alternatively, the licensing authority may refuse the application on the grounds that granting the application will undermine Licensing Objectives and conditions would be ineffective.”

12.12 Mr Day addressed the Panel and stated the following:

- The Licensing Panel had an obligation to consider the looseness of the licence that could be agreed.
- In terms of premises licence, the issue was that a reasonably loose licence could be transferred to someone who could take over with bad record.
- It was noted that this had been a members club with restricted membership which would now be open to everyone.

- It was further noted that the process of this transition appeared swift and easy especially when Sussex Police were insistent on having stricter measures since 2016/2017.

12.13 Mr Sherrington addressed the panel and stated that market tests conducted over the last 3 years showed that there was a need for another premises and this this would help to disperse customers thus helping to reduce noise pollution.

12.14 **RESOLVED** – That the panel decision was as follows:

“The panel has read all the papers, including the further addendum information submitted by the applicant, and listened carefully to all the submissions made by the parties at the hearing.

The application is for a Variation of a Premises Licence under the Licensing Act 2003. The application proposes to remove all embedded terms and restrictions imposed relating to the use of the venue as a members club but keep terms involving restrictions on use of the garden. There is no application to increase hours for licensable activities.

There are 5 relevant representations; 2 objecting to the application and 3 in support. They are from a local business, local residents and a local Councillor. The applicant has agreed a set of conditions with the police to attach to the licence.

In the representation against the application from the local business Mr Day argues that the removal of membership conditions will have the effect of increasing the density of licensed venues in a small village and that this will have a negative impact on the licensing objectives. He also considered that the licence did not have sufficient conditions but he had not had sight of the police conditions which were then sent to him. The applicant Mr Sherrington explained that the membership conditions were now too restrictive and no longer appropriate. He argued that easier access to his premises would have the benefit of dispersing customers better in the village which would have a positive effect. He had run a number of temporary events for the general public which had worked well and there had been no issues with them.

The panel has carefully considered all the points made. We do not consider that granting this variation will undermine the licensing objectives. We consider the premises to be responsibly run and that the series of temporary events held, which have gone without issue, are a good test of the proposed variation. There have been no objections from immediate neighbours and the panel believe there is some force in the applicant's argument that the variation will result in better dispersal between premises which in the current situation will be of benefit.

The panel would like to amend 2 of the conditions proposed by the applicant in his operating schedule. The first is to amend the following: *We will employ the services of a security company that can be called on should there be any trouble and will employ the use of security staff for any large scale event where there is a risk of disorder.* This shall now be as follows: *'The licence holder will employ the services of a Mobile Support Unit as backup in the event of any problems at the premises.'* The rest of that condition becomes part of the SIA risk assessment condition already agreed.

The second is to amend the following: *All children required to stay with their parents at all times,* to become: *'Children must be supervised by an adult at all times'*. The panel does not consider that the suggested *'provision of a taxi phone for customers to call'* as proposed in the operating schedule is now an appropriate condition.

The panel therefore grant this variation with the conditions agreed with the police and the above amendments to the operating schedule."

The meeting concluded at 11.00am

Signed

Chair

Dated this

day of