

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

10.00am 31 JULY 2018

HOVE TOWN HALL, ROOM G90 - HOVE TOWN HALL

MINUTES

Present: Councillor ; Deane, Marsh and O'Quinn

Officers: Donna Lynsdale (Licensing Officer), Rebecca Sidell (Legal Advisor) and Kat Hoare (Clerk)

PART ONE

18 TO APPOINT A CHAIR FOR THE MEETING

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

19 PROCEDURAL BUSINESS

19a Declaration of Substitutes

19.1 There were none.

19b Declarations of Interest

19.2 There were none.

19c Exclusion of the Press and Public

19.3 There were no Part Two items.

20 HANGLETON MANOR LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

20.1 The Panel considered a report of the Executive Director of Neighbourhoods, Communities and Housing in relation to an application for Hangleton Manor, Hangleton Valley Drive, Hove, BN3 8AN. Present at the hearing were: Philip Day (Applicant's Representative); and Joanne Wells, Lynn Wells, Peter Grist and Susan Grist (Local Residents).

Introduction from the Licensing Officer

(2) The Licensing Officer stated:

“This is an application for a variation to the premises licence issued for Hangleton Manor located at Hangleton Valley Drive in Hove.

The current licence allows:

Live Music until midnight everyday;

Recorded Music until 1am Monday to Saturday and midnight on Sundays;

Anything Similar to Live or Recorded Music until midnight every day;

and the **Sale by Retail of Alcohol** between 11am and 1am Monday to Saturday and 11am to midnight on Sundays.

The **opening hours** of the premises are stated as Monday to Saturday 11am to 1.30am and on Sundays between 11am and half past midnight.

The applicant, Hall and Woodhouse Limited are applying to:

- include the premises beer garden within the licensable area
- remove a condition which stipulates a capacity for the premises and
- add the licensable activity of Late Night Refreshment to match the opening hours of the premises – that is Monday to Saturday 11am to 1.30am and on Sundays between 11am and half past midnight.

The new plan submitted can be seen in Appendix B on page 21. The layout of the internal premises is to remain as that shown on the existing licence.

4 representations have been received from local residents. The representations contain relevant concerns relating to the Licensing Objectives of Prevention of Public Nuisance and Public Safety. The representations can be seen on pages 29-32 of today’s papers.

A statement addressing the concerns contained in the representations and a proposal of conditions that the applicant would be willing to add to the licence was submitted by the applicant’s solicitor to the Licensing Authority on 22nd July and this was circulated to the Panel as an Addendum to the papers. Copies are available for all present.”

- (3) The Legal Advisor stated that a late representation from a local resident had been submitted to the Chair of the Licensing Committee. As this representation was out of time it could not be taken into consideration by the Panel.
- (4) In response to the Chair, the Licensing Officer stated that she did not have to hand the number of Temporary Event Notices (TENs) that had been issued by the applicant in the previous year.

- (5) In response to Phillip Day, the Licensing Officer stated that there had been some historic complaints about noise levels at the premises but these had never been substantiated by Environmental Health Officers.
- (6) In response to Phillip Day, the Licensing Officer confirmed that Responsible Authorities had not made any representations against the application.

Representation from Local Residents

- (7) Peter Grist stated that there had been historic issues of noise levels at the pub and especially with customers using the beer garden late into the night although new management this year had improved the situation. This was especially an issue in the summer when neighbours wanted to sleep with their windows open. Neighbours were used to and had adjusted to the status quo of the garden being open until 11:00pm but they were concerned that expanding the licenced area to include the beer garden and extending late night refreshments to 1am would mean that customers were more likely to be in the garden later into the night. Susan Grist stated that they had lived close to the pub for over 20 years and in that time the opening hours and noise level had increased substantially.
- (8) In response to Councillor Deane, Peter Grist stated that the garden was usually cleared by 11:30pm and noise only went on after this occasionally. The reasons residents were concerned by the application is that they feared that the occasional noise caused by an event would become the norm.
- (9) Joanne Wells stated that she did not understand the purpose of the application to vary the licence if the Applicant proposed to continue with the same operating hours and business practices. She was especially concerned about the removal of the condition restricting the capacity of the pub.
- (10) The Legal Advisor clarified that under the Licensing Act 2003 conditions were not usually placed on capacity unless requested by the Police to prevent public nuisance or disorder. Safe capacity was instead now dictated through Fire Safety Inspections. The condition restricting capacity on the existing licence was as a result of it being originally issued under previous licensing regulations.
- (11) In response to Councillor Deane, the Local Residents stated that the issues with trees mentioned in their representation was to do with the very high trees in the beer garden which over shadowed their houses and dropped a lot of leaves on their gardens. The pub had worked with them to cut these trees back but they were subject to Tree Protection Orders and the Council had been unwilling to allow sufficient pruning.

Representation from the Applicant

- (12) Phillip Day spoke on behalf of the applicant who regretted that they could not attend the hearing and had sent their apologies. Hangleton Manor was directly managed by the brewery Hall & Woodhouse which owned around 200 public houses of which about third it directly managed. Hangleton Manor was a Grade II* listed building which was set in a conservation area and so there was little scope for alterations including cutting the trees back.

- (13) The Application was motivated by a desire to rationalise the licence to the circumstances of the pub. The existing license conditioned a maximum capacity which was below the 119 covers in the pub and well below the capacity set by the Chief Fire Warden. The owner of the pub at the time the licence was transferred following the Licensing Act 2003 did not include late night refreshments which meant under the current arrangements the pub could serve alcohol until 1am but had to stop serving coffee at 11pm. The inclusion of late night refreshments until 1am did not indicate that the pub now intended to open later but it would mean that they could cater for the occasional private function that asked them to keep their kitchen open past 9pm when it would normally close. The Applicant would also be happy for the Panel to condition that any food served after 11pm was to be consumed inside the pub.
- (14) The application also provided voluntary conditions on live recorded music outside of the venue would cease at 9pm. The playing of live or recorded music at a licenced venue was exempt from licensable activity under the Live Music Act before 11pm as long as there was less than 500 people in attendance. Phillip Day stated that the Applicant wished to maintain a good relationship with residents and so was offering this as a condition.
- (15) The Chair noted that the improvements at the premises mentioned by residents seemed to largely coincide with the appointment of a new live in manager and she was concerned that if this manager left the noise levels would again become an issue. She asked what oversight the brewery had over the pub.
- (16) Phillip Day responded that Hangleton Manor was directly managed by the Brewery and that the manger was their direct employee. There was a regional manager who visited each premises in their area a minimum of three days a month. If there were issues with how a pub was being run they may move, dismiss or demote a manager as appropriate.
- (17) In response to the Chair, Phillip Day stated that residents could make complaints both directly to Hall & Woodhouse and to him and he would ensure the they reached the right people.
- (18) In response to Councillor Marsh, Phillip Day stated that the manager of the pub had made the application to vary the license but that it was in line with the general direction of the rest of the managed estate which was to place an emphasis on food and being child tolerant.
- (19) In response to Councillor Marsh, Phillip Day confirmed that the applicant would not look to have a second bar in the beer garden but would seek to install a temporary till point from which customers would be able to order alcohol which was then brought out to their tables.
- (20) In response to Councillor Marsh, Phillip Day stated that it was worth varying the licence despite no planned changes to the operation of the premises as the redundant capacity condition on the existing license meant that the premises was technically in breach of its license although compliant with the law. As there was a cost involved in applying to vary a licence it made sense to try and tidy up all aspects of the licence at once.

- (21) In response to Lynn Wells, Phillip Day stated that if the variations to the licence were granted then the garden would continue to close at 11pm. The additional till point in the garden would prevent people having to order from the small bar indoors which was a choke point and would ensure that there was always a member of staff in the garden.
- (22) Susan Grist expressed concern that the conditions on the licence offered by the applicants did not include a limit to the volume at which music could be played.
- (23) Phillip Day stated that the Council was able to take action against the premises if music that was played was disruptive to residents even if there was not a condition on the licence limiting volume.

Summaries

- (24) The Licensing Officer stated:

“This is an application for a variation to an existing premises licence to:

- include the premises beer garden within the licensable area
- remove a condition which stipulates a capacity for the premises and
- add the licensable activity of Late Night Refreshment

You have now heard from all 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 necessary to promote the licensing objectives;
- the representations presented by all the parties;
- the Licensing Guidance;
- the Council’s own statement of licensing policy

After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule.

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 this is necessary for the promotion of the licensing objectives.”

- (25) Peter Grist stated that the part of the application which concerned residents most of the additional till point in the garden and the potential impact this would have on noise.
- (26) Phillip Day thanked the residents for being so open with their concerns and stated that he would pass them on to the manager and the Brewery.

Decision

20.27 The Panel's decision was sent to all parties:

"This is an application for a variation to add late night refreshment to the licensable activities, remove the condition relating to maximum capacities, and include the rear beer garden within the licensed area of the premises.

The panel listened carefully to the local residents and appreciated their concerns regarding noise especially late in the evening from the beer garden. It was acknowledged by the residents that there had been some mitigation of issues since the new manager had taken over the premises.

The panel heard detailed submissions from the solicitor for the Applicants who was able to clarify a number of matters in relation to the application which the panel found helpful. In his written letter to those making representations there was also a willingness to offer conditions to deal with some of the concerns raised.

In relation to the aspect of the application regarding late night refreshment, the panel grant this with, for the avoidance of doubt, a further condition which was agreed by the solicitor for the applicant as follows: 'All late night refreshment after 23:00 hours shall be served and consumed in the internal licensed areas of the premises'.

Regarding the removal of the capacity condition on the licence, the panel agree to remove this as we have been advised that it is historic and no longer strictly relevant or applicable.

The most controversial aspect of the variation is the inclusion of the beer garden within the licensed premises. We have heard and been able to clarify the position regarding this with the solicitor for the applicant. To help alleviate residents' concerns conditions have been offered regarding closure of the garden and the external till point. These go further than the existing conditions on the licence and the panel consider that they will promote the licensing objectives, in particular that relating to the prevention of public nuisance, and will mitigate any risk posed by the variation. The panel therefore grant this aspect of the variation with the addition of the following proffered conditions which will attach to the licence:

1. The external licensed area shown on the approved plans will be closed to customers no later than 23:00 hours each day and staff will be instructed to ensure that staff completely clear the area of customers by no later than 23:25 hours. Notices to the effect that the beer garden closes at 23:00 hours will be prominently displayed at entrance points from the pub to the beer garden.
2. After 23:00 hours, any patrons wishing to smoke will be directed to the pub's car park.
3. No alcoholic beverages will be stored in the external licensed area and any alcoholic beverage ordered from any external till point will be delivered to the customer by waiter or waitress service.
4. Any external till point will close no later than 21:00 hours.
5. No permanent structure shall be erected in the external licensed area that might be used as a service point.
6. If any event is scheduled to take place at the premises which involves the performance of live or recorded music, the designated premises supervisor or

his/her deputy shall ensure that any occupier of a residential property adjoining the boundary of the pub is given at least 7 days' notice of the event by email, provided that the person(s) concerned have provided their email address to the management team at the pub."

The meeting concluded at 11.35am

Signed

Chair

Dated this

day of