

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

**10.00am 16 NOVEMBER 2011**

**COMMITTEE ROOM 1, BRIGHTON TOWN HALL**

**MINUTES**

**Present:** Councillors ; Deane, Cobb and Marsh

**Officers:** Jim Whitelegg, Senior Environmental Health Officer; Rebecca Sidell, Lawyer and Penny Jennings, Democratic Services Officer

**PART ONE**

**77. TO APPOINT A CHAIRMAN FOR THE MEETING**

77.1 Councillor Deane was appointed Chair for the meeting.

**78. PROCEDURAL BUSINESS**

**78a Declaration of Substitutes**

78.1 Councillor Marsh was in attendance in substitution for Councillor Gilbey.

**78b Declarations of Interest**

78.2 There were none.

**78c Exclusion of the Press and Public**

78.3 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).

78.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of any item on the agenda.

**79. APPLICATION FOR VARIATION OF PREMISES LICENCE: THE WHISKY SHOP, 64 EAST STREET, BRIGHTON**

- 79.1 The Panel considered a report of the Head of Environmental Health and Licensing requesting that they determine an application for a new premises licence for the Whisky Shop, 64 East Street, Brighton.
- 79.2 Inspector Apps and Mr Bateup were in attendance as representatives on behalf of the Police. Councillor Kitcat was unable to attend in his capacity as a Local Ward Councillor, however his letter of representation had been circulated with the papers for the meeting. Councillor Kitcat had confirmed that he wished to re-iterate his objections in respect of the application Mr Andrews was in attendance to make representations on behalf of the applicants.
- 79.3 Mr Whitelegg, the Senior Environmental Health Officer was in attendance and gave a presentation on behalf of the Licensing authority detailing the hours of operation sought by the applicants. He referred to the premises location within the Cumulative Impact Zone (CIA) stating that whilst there was a presumption of refusal each application was considered on its merits; the presumption of refusal could be overcome if applicants made a sufficiently compelling case that their premises would have no negative impact on the licensing objectives, and would not have a negative impact within the CIA. Consideration needed to be given to the characteristics and style of operation of individual premises.
- 79.4 Inspector Apps made representations on behalf of the Police. He referred to their letter of representation stating that notwithstanding the measures agreed to by the applicant they remained of the view that the proposed use would result in another premises selling alcohol in an area where the number of premises selling alcohol had already reached saturation point. They were firmly of the view that this use would result in a further cumulative negative impact.
- 79.5 Mr Andrews spoke on behalf of the applicants in support of their application. He confirmed that following further discussions the applicants had made significant further amendments to their application in order to address the concerns expressed by the Police, it was now also proposed that the premises would be open between 09.00 and 18.30 daily.
- 79.6 Mr Andrews stated that the style of operation proposed was significantly different from any of the other retail outlets within the area and indeed the city and would be one of only 5 retail outlets in the UK providing specialist retail sales of Whisky and Whisky based products, the other branches being located in Edinburgh and London respectively.
- 79.7 In answer to questions of Councillors Deane and Cobb Mr Andrews confirmed that 90% of sales would be whisky based products including liqueur chocolates etc and that beers, ciders, pre-mixer alcoholic drinks and wines, with the exception of champagne would not be sold. Sales were targeted at a selective niche market and there would be no cut price special offers. The whiskies offered for on sale would start with a price tag of upwards of £20, with bottles costing £30-£40 per bottle on average. It was not envisaged that the premises would be open beyond 6.30pm except on those occasions, once or twice per month, when whisky tasting evenings took place. On those occasions the shop would not be open to the general public, these events were "private" with

attendance by invitation only, invitations would be sent to carefully identified customers on the company's mailing list.

- 79.8 Councillor Deane sought clarification regarding the time at which the premises would close on those evenings when tasting events took place, seeking confirmation of the hour at which alcohol sales would cease and regarding measures to be undertaken to ensure that no one other than invitees attended such events.
- 79.9 Mr Andrews explained that on evenings when tasting events took place no alcohol sales would take place beyond 9.00pm, in many cases orders would be taken for future collection. It was also confirmed that the applicants would accept a condition stipulating the nights of the week on which tasting events could take place (i.e, not Thursday, Friday, Saturday evenings) and to the other suggested conditions put forward by the Police. Councillor Deane asked whether the Police considered that there particular times/days in the week when there was a greater likelihood of disturbance or anti-social behaviour. Inspector Apps stated that whilst this was not a regular occurrence incidents could sometimes occur relatively early in the evening.
- 79.10 There were no further questions therefore Mr Whitelegg gave the closing submission on behalf of the licensing authority. He reminded the Panel that consideration needed to be given to the individual styles of operation of different types of premises and that any conditions applied needed to be proportionate and enforceable.
- 79.11 Inspector Apps made the closing submission on behalf of the Police. He stated that whilst he accepted that the applicants had agreed to adopt a number of measures in relation to the manner in which the premises would be operated, his concerns in relation to the its potential impact within the CIA remained and he considered that the application should therefore be refused.
- 79.12 Mr Andrews then made the closing submission on behalf of the applicants. He reiterated his earlier comments in support of the application referring to what he regarded as the unique style of operation of the premises and to the numerous conditions with which the applicants were happy to comply in order to mitigate against any potential negative impact. He considered that it had been adequately illustrated that the premises by virtue of its uniqueness and hours of operation would not impact negatively on the CIA.
- 79.13 The Chair explained that the Panel had considered the application and all of the representations made very carefully and to all the arguments put forward and were mindful that the premises was located in the CIA and were therefore minded to grant the application on the basis of the conditions set out below. It was considered that the style of operation of these premises was such that it would not add to the existing cumulative impact. This was because the hours for sale of alcohol were limited and the conditions imposed would reinforce this.
- 79.14 **RESOLVED** – That permission be granted for a new premises licence for the Whisky Shop, 64 East Street, Brighton subject to the conditions set out below:
1. The hours for the sale of alcohol would be from 09.00 to 18.30 only, subject to the conditions set out under point 8 below;

2. The premises shall trade as a specialist Whisky shop whereby its primary business shall be the sale of whiskies and 90% of alcohol products on display shall be whisky or whisky derived products;
3. There shall be no sale of pre-mixer alcoholic drinks including alco pops, beers, ciders and wines other than champagnes;
4. The premises shall install and maintain a CCTV system according to the reasonable requirements of the crime prevention officer;
5. A panic alarm shall be operated by the licensee and installed at the till desk and the applicant will become a member of the Brighton and Hove Crime Reduction Partnership;
6. The premises shall operate a Challenge 25 scheme and all staff shall be appropriately trained;
- 7 An incident/refusals book to be kept and staff trained appropriately; and
8. There shall be no sales of alcohol after 18.30 save to patrons who are attending the premises for a whisky tasting which will be by private invitation only. These shall only take place on Tuesday or Wednesday night. On any night when such a whisky tasting takes place, there shall be no new admissions to the premises after 20.00 and no sale of alcohol beyond 21.00 hours.

The Panel considered that the style and operation of these premises was such that it would not add to the existing cumulative impact. This was because the hours for the sale of alcohol were limited and the conditions imposed would reinforce this.

**Note:** The Legal Adviser to the Panel confirmed that the applicants would receive written notification of the decision and that details of their appeal rights would be attached.

#### **80. NEW PREMISES LICENCE APPLICATION:TESCO, WEST WAY,HOVE**

- 80.1 The Panel considered a report of the Head of Environmental Health and Licensing requesting that they determine an application for a new premises licence by Tesco, 3-5 West Way, Hove.
- 80.2 Miss Hart was present as a neighbouring resident in order to set out her concerns in relation to the proposed application. Mr Bartley was in attendance representing Tesco.
- 80.3 The Senior Environmental Health Officer, Mr Whitelegg gave a presentation detailing the application. It was noted that the Police had withdrawn their representation following agreement by the applicants to meet conditions suggested by the Police.
- 80.4 Miss Hart referred to her concerns set out in her submitted letter in relation to the proposed premises licence. She referred to the fact that noise and disturbance was already experienced in the area as a result of activities emanating from "The Grenadier "

public house and from other establishments in the area from which alcohol could be purchased. Whilst it was recognised that these issues were not associated directly with Tesco she was anxious that this additional premises did not serve as a magnet for further trouble and disturbance late at night. She referred to the un neighbourly way that Tesco had carried out works to prepare the store for opening, stating that there had been significant levels of disturbance of which no prior consultation or notification had been given to neighbouring residents, particularly those living above the store and therefore most directly effected,

- 80.5 It was noted that a number of the matters raised by Miss Hart did not fall directly within the responsibility of the Licensing Authority and information was given regarding the most appropriate means of raising them with the Planning Department/Planning Enforcement Team. It was considered regrettable that no prior consultation had taken place and it was hoped that the applicants would remedy this in future.
- 80.6 Mr Bartley spoke on behalf of the applicants in support of their application. He referred to the fact that the Police had no concerns regarding the manner in which it was proposed the premises would be run and operated as evidenced by the fact that they had withdrawn their letter of representation. Notwithstanding this he agreed it was regrettable that Miss Hart had not been fully consulted in respect of the proposals, stating that he would seek to ensure this was remedied in future. He gave assurances that it was not intended to make deliveries very late at night or early in the morning, which would result in an attendant noise nuisance.
- 80.7 There were no further questions or representations and the Senior Environmental Health Officer gave his closing submission on behalf of the Licensing Authority. He stated that any conditions applied to the licence needed to take account of the premises location and style of operation and needed to be proportionate and enforceable.
- 80.8 Miss Hart gave her closing submission and re-iterated her concerns, stating that she hoped it would be possible for these to be addressed.
- 80.9 Mr Bartley gave the closing submission on behalf of Tesco Stores stating that he noted the concerns which had been raised and would ensure that the points made in respect of deliveries and other matters would be taken on board and that Miss Hart would be provided with contact details for Tesco's should she wish to raise any future concerns.
- 80.10 The Chair stated that the Panel had listened very carefully to all of the arguments put forward and were particularly aware of the concerns of local residents, but had been mindful that their decision must be made within the framework of the law as set out in national guidance and the Council's Own Statement of Licensing Policy. The Panel were particularly mindful of Paragraph 10.21 of national guidance and the fact the Police had withdrawn their representation on the basis of the conditions agreed by the applicant. The Panel were therefore granting the application subject to those conditions which they believed would comply with the licensing objectives.
- 80.11 The Panel were pleased to hear that the applicant was keen to work with immediate neighbours and the local community and suggested that it would be appropriate for them to start liaising with those residents living above the premises. Residents were

reminded that powers existed to review the licence should problems occur and would urge anyone adversely affected by this licence to exercise such powers.

80.12 **RESOLVED** – That a new premises licence be granted to Tesco, 3-5 West Way, Hove in compliance the terms agreed by the applicant with the Police.

**Note:** The Legal Adviser to the Panel confirmed that the applicants would receive notification of the Decision in writing with details of their appeal rights attached.

The meeting concluded at 12.00pm

Signed

Chairman

Dated this

day of