

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

10.00am 24 APRIL 2012

COMMITTEE ROOM 1, BRIGHTON TOWN HALL

MINUTES

Present: Councillor Deane (Chair); Marsh and Simson

Officers: Sarah Cornell, Senior Technical Officer, Rebecca Sidell, Lawyer and Caroline De Marco, Democratic Services Officer.

PART ONE

147. TO APPOINT A CHAIR FOR THE MEETING

147.1 Councillor Deane was appointed Chair for the meeting.

148. PROCEDURAL BUSINESS

148a Declaration of Substitutes

148.1 There were none.

148b Declarations of Interest

148.2 There were none.

148c Exclusion of the Press and Public

148.3 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).

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

149. CO-OPERATIVE, WHITEHAWK ROAD, BRIGHTON - APPLICATION FOR A VARIATION OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003

- 149.1 The Panel considered a report of the Head of Regulatory Services regarding an application for a variation of a premises licence under the Licensing Act 2003 for the Co-operative, Whitehawk Road, Brighton.
- 149.2 Mr Chris Wood, Operations Manager, East Brighton Co-operative, and Mr Graham, Solicitor attended the meeting to speak in favour of the application.
- 149.3 The objectors were not in attendance.
- 149.4 The Licensing Officer summarised the application and explained that one representation had been received from a local business. The representation had concerns relating to the Prevention of Crime and Disorder and the Protection of Children from Harm. A representation had been received from Sussex Police which included conditions relating to Prevention of Crime and Disorder and the Protection of Children from Harm. The representation was withdrawn as the applicant agreed to the conditions and amended the operating schedule accordingly. A further representation was not accepted as it fell outside of the designated area. The store was not situated in the CIA or Special Stress Area.
- 149.5 Mr Graham set out the case for the applicants. He stated that much of what he said would apply to both applications being heard today. (The Panel were also considering an application for the Co-operative Store in St James's Street, Brighton). The Panel agreed that they should consider both cases in turn, but that they would make their decisions in one session.
- 149.6 Mr Graham set out some background information in relation to the Co-operative Stores and the reason for the application. The Co-operative was the 5th largest UK retailer and had 3800 stores in the UK with 76,000 staff. It was the largest consumer co-op in the world. Both applications were for convenience stores. Part of the convenience was providing facilities for customers to shop when they wished. This would include the sale of alcohol, which made up 15% of total sales.
- 149.7 Mr Graham explained that the Co-operative had 100 years experience as retailers and they understood their responsibilities. All stores had a Due Diligence Manager who liaised with the Statutory Authorities and ensured policies were upheld. There were good procedures in place and an extensive training regime for anyone selling alcohol. This included a buddying system and refresher courses. Training took place every 8 weeks for the St James's Street Store and at least every 12 weeks elsewhere. There were 6 Personal Licence Holders at the Whitehawk store.
- 149.8 Mr Graham explained that alcohol was positioned as far away as possible from the door and tills. The fact that the applicant did not have a history of disorder was a testament to the effectiveness of the procedures. The Co-operative stores had age prompt tills, electronic records of refusals, they operated the Challenge 25 policy and kept verification of age where appropriate. As an organisation they ensured that policies were effective. Their typical customer was the middle age lady shopper.

- 149.9 Mr Graham explained that the application was to extend the current hours of the licence. This was being done as a result of a survey and information received from customers. Customers wanted longer hours. Many were shift workers, and people generally were working longer and later hours. As a result, a project of varying the hours was taking place across the country.
- 149.10 Mr Graham stressed that there was no nuisance in relation to the Whitehawk store. There were 20 members of staff and 6 Personal Licence Holders. Mr Graham referred to the letter from the Police set out on page 25 of the agenda. The proposed conditions agreed with the Police were already in place.
- 149.11 Mr Graham stressed that objections must be based on evidence and not speculation. The letter of objection speculated on what the impact might be.
- 149.12 Councillor Marsh asked if the Police had agreed the earlier opening time of 06.00 hours. Mr Graham confirmed that the police had agreed to the hours requested.
- 149.13 The Chair asked if the store was likely to get self service tills. Mr Wood replied that both the Whitehawk and St James's Street Stores were small and it was not the policy or intention to self scan in these stores. Where self service tills were in operation, a supervisor was automatically called when alcohol was scanned.
- 149.14 The Chair asked what happened if a drunk person wanted to buy alcohol at 06.00 hours. Mr Wood replied that the sale of alcohol would be refused.
- 149.15 The Licensing Officer gave her closing observations. The application was to extend the licenced hours and opening hours of the store to 06.00 to 23.00 hours every day. She quoted licencing guidance and stressed that each application should be considered on its own merits.
- 149.16 The Panel Lawyer stressed that any conditions should be canvassed with all parties.
- 149.17 **RESOLVED** - The Panel has listened to all the submissions put forward and carefully considered the arguments and written local representation.

The Panel note that this store is not within the Cumulative Impact Area and that the Police had withdrawn their objection to the proposed extension of hours, upon agreement of conditions.

The Panel have heard evidence that the applicant has training in place to combat under age sales and policies in place to control alcohol sales.

The Panel are therefore granting this variation subject to the conditions put forward by the Police, which the Panel consider will fulfil the licensing objectives.

150. CO-OPERATIVE STORE, 41-45 ST JAMES'S STREET, BRIGHTON - APPLICATION FOR A VARIATION OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003

- 150.1 The Panel considered a report of the Head of Regulatory Services regarding an application for a variation of a premises licence under the Licensing Act 2003 for the Co-operative, 41-45 St James's Street, Brighton.
- 150.2 Mr Chris Wood, Operations Manager, East Brighton Co-operative, and Mr Graham, Solicitor attended the meeting to speak in favour of the application.
- 150.3 The objector was not in attendance.
- 150.4 The Licensing Officer summarised the application. She explained that the original application was to change the licensed hours and opening hours of the store to 06.00 - 23.00 every day. This had been changed to 07.00 to 23.00 every day following agreement with the Police. One representation had been received from a local resident. The representation had concerns relating to the Prevention of Crime and Disorder, Cumulative Impact and the Prevention of Public Nuisance. A representation had been received from Sussex Police which included concerns relating to Cumulative Impact. The representation was withdrawn as the applicant agreed to the reduction in the hours for the Sale by Retail of Alcohol and amended the operating schedule accordingly. A further representation was not accepted as it was received out of time.
- 150.5 The Licensing Officer reported that the store was situated in the CIA. She quoted Licensing Guidance on this matter but stressed that the special policy was not absolute and the Local Authority should consider the circumstances of each case. If the application was unlikely to add to cumulative impact it may be agreed. A complaint had been received last year regarding street drinkers in St James's Street. The complaint did not relate specifically to the Co-operative.
- 150.6 Mr Graham set out the case for the applicants. He referred to the background of the application (set out in the previous application for the Whitehawk Road store). As a result of discussions with the police the application had been amended.
- 150.7 Mr Graham explained that the store had been opened in October 2002 and had 20 members of staff. There were 5 Personal Licence Holders. Alcohol was kept behind a Perspex barrier where there was no access to the public. The conditions agreed for the Whitehawk Road store were already in place in the St James's Street store. Mr Graham invited the Panel to take a similar view to the Police regarding the extension of hours. He considered that it would be unlikely to have any negative impact.
- 150.8 Councillor Simson asked why the Police felt that an hour would make a difference. Mr Graham replied that he understood that it was simply because it was in the CIA. The police had no problems with the hours on Sundays.
- 150.9 Councillor Simson asked for confirmation that alcohol was placed at arms length. Mr Wood confirmed that no off sales were on display.
- 150.10 Councillor Marsh asked if the applicants were happy with the reduction in hours and Mr Graham confirmed that they were. Councillor Marsh asked if the store would now

open at 07.00 hours. Mr Graham confirmed that the store was proposing to open at 07.00 hours.

- 150.11 The Chair raised the issue of advertising. She mentioned that the Western Road Co-operative store had a picture of a large glass of wine outside the store, without any words. Mr Wood replied that he was 99.9% certain that this was not the case with the St James's Street store. The Western Road store was run by the Southern Co-operative.
- 150.12 The Chair asked Mr Wood if he was happy if this could be added as a condition, and Mr Wood confirmed that this would be acceptable. However, he confirmed that the current condition prohibiting the advertisement of alcohol in the front window would probably cover such a picture of a glass of wine and the panel lawyer thought it could too.
- 150.13 Councillor Simson asked if there were advertisements as part of a meal deal. Mr Wood confirmed that the only meal deals offered were for a sandwich, a bottle of Coke and crisps. The Co-operative rarely had meal deals with wine.
- 150.14 The Chair asked for confirmation that no alcohol was stacked by the door. Mr Wood confirmed that it was not.
- 150.15 The Licensing Officer gave her closing observations. She quoted licensing guidance in relation to applications in the CIA.
- 150.16 Mr Graham stated that he had nothing further to add on behalf of the applicants.
- 150.17 **RESOLVED** - The Panel has listened to all the submissions put forward and carefully considered the arguments and written local representation.

The Panel note that this store is within the Cumulative Impact Area and have taken into account the Council's policy.

The Police have withdrawn their representation as the applicant has amended their application to state that the hours for the sale of alcohol start at 07.00 hours rather than 0600 hours.

The Panel note that all alcohol is displayed behind a high Perspex Screen and wish to add those words to the current conditions so that the last sentence reads "All alcohol in the public area of the shop will be beyond arms reach behind a Perspex screen". The Panel consider that this will fulfil the licensing objectives.

In view of the amended application and the stringent conditions already on this licence, including that alcohol is kept out of arm's reach, the Panel share the view of the Police that this is not likely to add to Cumulative Impact. The Panel are therefore granting this variation.

The meeting concluded at 11.06am

Signed

Chair

Dated this

day of