

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

10.00am 18 NOVEMBER 2015

COMMITTEE ROOM 3, BRIGHTON TOWN HALL

MINUTES

Present: Councillor ; Marsh, Bell and Moonan

Officers: Becky Pratley (Licensing Officer), Sarah-Jane McNaught (Licensing Officer), Rebecca Sidell (Lawyer), Lisa Johnson (Democratic Services Officer), Cliona May (Assistant Democratic Services Officer).

PART ONE

33 TO APPOINT A CHAIR FOR THE MEETING

33.1 Councillor Marsh was appointed Chair for the meeting.

34 PROCEDURAL BUSINESS

34a Declaration of Substitutes

34.1 There were none.

34b Declarations of Interest

34.2 There were none.

34c Exclusion of the Press and Public

34.3 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).

34.4 RESOLVED - That the press and public be not excluded from the meeting during consideration of Item 35 onwards.

35 APPLICATION FOR A NEW PREMISES LICENCE, WINE KEG COMPANY, 104A DYKE ROAD, BRIGHTON

- 35.1 The Panel considered a report of the Director of Public Health in relation to an application for a New Premises Licence under the Licensing Act 2003 for Wine Keg, 104A Dyke Road, Brighton.

Introduction from the Licensing Officer

- 35.2 The Licensing Officer, Becky Pratley, introduced the report and explained that it was an application for a new premises licence for 104A Dyke Road, Brighton in the St Peter's & North Laine ward of the City. It was detailed that the application had initially requested on and off sales until 2100 hours on Monday-Saturday and until 1600 hours on Sunday but had since been amended to off sales only and proposed the sale of alcohol from 1000-2000 hours Monday - Saturday and 1100 – 1600 hours Sunday.
- 35.3 It was explained to the Panel that the premises was within a special stress area (SSA), which was outlined in the Statement of Licensing Policy, and that the area was recommended for further monitoring. It was added that 2.4.12 of the Statement of Licensing Policy (SoLP) stated that new and variation applications for premises within the SSA would not be subject to the presumption of refusal; however, operators would be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation would not add to the problems faced in the area.
- 35.4 The Licensing Officer clarified to the Panel that the Special Stress Area (SSA), that the Premises was situated, was of concern to the licensing authority because of the relatively high levels of crime and disorder and nuisance experienced within it. It was added that the area would be kept under review.
- 35.5 It was explained to the Panel that the Police Licensing Unit have made a representation on the grounds of crime and disorder and that the premises were within the SSA.
- 35.6 The Licensing Officer added that a representation was received from the Council's Licensing authority; however, following correspondence with the applicant the operating schedule was amended to include a number of conditions and the hours of operation reduced. It was explained that the licensing authority had withdrawn their representation. The conditions included: no beers, lagers or ciders above 6% ABV; all spirits in the public area would be displayed behind the counter; CCTV to be installed; staff training; and challenge 25.
- 35.7 In response to Councillor Moonan, Sarah-Jane McNaught, Licensing Officer, clarified that the Licensing Authority had withdrawn their representation after the application had been amended to not include on sales. It was added that the Licensing Authority were satisfied with the application and believed that it was a specialist premises rather than an off licence.

Presentation from the Responsible Authorities

- 35.8 The Sussex Police introduced and stated that the representation had been made because the premises was within the SSA and was situated in a mixed commercial and residential area. It was added that there were eight off licences in the immediate area

and that if the premises closed, another off licence could open which could encourage binge drinking.

- 35.9 It was explained to the Panel that there were ongoing problems in the area with binge drinking, antisocial behaviour and that the St Peter's & North Laine ward had the second highest amount of ambulance calls in the city for drinking related issues.
- 35.10 The Sussex Police representative clarified to Councillor Marsh that the police would still object to the application, regardless of the conditions that could be agreed, due to the premises being in the SSA. Sergeant Ben Hearth added that the sale of single cans promotes street drinkers.
- 35.11 Sergeant Ben Hearth clarified to the applicant that the police would not object to a condition of charging a minimum of £0.50 per unit; however, would still have concerns regarding off sales of single cans.

Presentation from the Applicant

- 35.12 The Applicant, Ms Oliver, introduced and explained that she had studied at Plumpton College and had become a wine specialist. The applicant added that she was a responsible retailer and would be happy to work closely with the local authority and the police to ensure the business was run responsibly.
- 35.13 The Applicant explained that they would: join the Business Crime Reduction Partnership (BCRP); have 24/7 live CCTV and alarm system installed; have a refusal log; train all staff on alcohol sales; and would actively encourage customers to eat while drinking by selling soft drinks and snacks.
- 35.14 The Applicant stated that brewers had begun to sell beers in cans, rather than bottles; therefore, wished to have a licence to sell single cans. It was explained that craft beers would promote moderate drinking and would be a premium price compared to the other off licences in the area.
- 35.15 In response to Councillor Marsh, the applicant explained that any craft beers over 6% ABV would be sold in bottles and wished to have a range for customers.
- 35.16 The Applicant clarified to Councillor Moonan that they actively encourage eating with drinking by discussing with the customers which food should be paired with wines and would have displays showing this.
- 35.17 Mr Oliver, the Applicant, explained to Councillor Bell that the business would be different to a regular off licences and this would be shown by: having displays in the window showing local produce; there would be no drink offers; and the bottles of wine would be no cheaper than £7.00. Ms Oliver added that they wished to sell wine related books and hold wine tasting and educational events in the near future.
- 35.18 In response to the Sussex Police, the Applicant clarified that the shop would be specialised to wine; however, the sales of craft beers would help the business remain sustainable.

Summaries

- 35.19 The Licensing Officer summarised and stated that the Licensing Guidance stated – “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 (including supporting information) presented by all the parties;
 - the Guidance;
 - its own statement of licensing policy (which is framed around the four licensing objectives).”
- 35.20 It was stated to the Panel that Council’s SoLP Matrix approach suggested refusal to off licences in the SSA. The Licensing Officer reminded the Panel that each application should still be considered on its own merits and that there was discretion to depart from the policy where justified.
- 35.21 The Licensing Officer explained that if the Panel decided to grant the application then any conditions added to the licence to meet the Licensing Objectives should be clear, precise and enforceable. It was added that alternatively, the licensing authority could refuse the application on the grounds that it is appropriate for the promotion of the licensing objectives and conditions would be ineffective in preventing problems.
- 35.22 The Sussex Police summarised and stated that they had concerns that the premises was located in the SSA and would add to the existing problems in the area.
- 35.23 The Applicant summarised and stated that they wished to be part of a wider movement and promote drinking as a hobby, rather than binge drinking. It was explained that there were wine events in the near future and that they wished to contribute to them.
- 35.24 At 1110 hours, the Chair informed the Panel that the Councillors would retire to make a decision on all the submissions made at the hearing, the representations and all the supporting documents provided.

Decision

- 35.25 The decision was sent to all parties on 23 November 2015. The decision was as followed;

“The Panel has listened very carefully to all the submissions made today, and read the papers.

We have considered our statement of licensing policy. The premises lies within the Special Stress Area (SSA) which is deemed an area of special concern in terms of the relatively high levels of crime and disorder and public nuisance experienced within it. Further, the application of the Matrix approach to this case suggests a ‘no’ to off licences in the SSA .

However, we have considered the individual merits of this application and the style of operation proposed, namely a high end wine led premises, and the consultation that the

applicants have had with the Police and Licensing Authority. We note the amendment of the application to off sales only with a terminal hour of 20:00 Monday to Saturday and 16:00 on Sunday and agreement of conditions, which has led to the representation from the licensing authority being withdrawn. The police request a further condition in particular relating to no sale of single cans of beer, lager or cider. This is because of the nature of the area and to discourage street drinkers. The Applicants contend that craft beer is increasing being sold in single cans rather than bottles and thus do not agree to this condition. The panel consider that this condition is appropriate in view of the area and to deter street drinkers and are not convinced about the craft beer argument.

The panel consider that the style of operation proposed and the conditions agreed are such that the licensing objectives will not be undermined. We therefore grant the application as amended with the following agreed conditions and the additional condition that 'No single cans of beer, lager or cider will be sold.'

Conditions agreed.

General

- No beers, lagers or cider with an ABV content exceeding 6% will be sold other than premium speciality bottled beer, lager or cider.
- All spirits in the public area of the shop will be displayed behind the counter and beyond arms reach of customers.

Prevention of Crime and Disorder

- Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.
- The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
- CCTV footage will be stored for a minimum of 31 days
- The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
- The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.

- Subject to Data Protection guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk for the police without difficulty or delay and without charge to Sussex Police.
- Any breakdown or system failure will be remedied as soon as practicable with actions taken in this regard being recorded.
- Authorised staff employed by Sussex Police in the role of licensing officer shall have the right of access to the licensed premises during hours of operation for the purpose of inspection of the premises and premises records in order to ensure the promotion of the licensing objectives.

For the Protection of Children from Harm

The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:

- The lawful selling of age restricted products
- Refusing the sale of alcohol to a person who is drunk
- Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed eight weeks, with the date and time of the verbal reinforcement/refresher training documented.
- All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and Brighton & Hove Weights & Measures Officers upon request.
- The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, driving licences with a photograph or proof of age cards bearing the 'PASS' mark hologram. The list of approved forms of ID may be amended or revised with the prior written agreement of Sussex Police and the Licensing Authority without the need to amend the licence or conditions attaching to it.
- Signage advertising the "Challenge 25" policy will be displayed in prominent locations inside the premises.
- The premises shall at all times maintain and operate refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor at intervals of no less than 4 weeks and feedback given to staff as relevant. This refusals book shall be available upon request to police staff, local authority staff and Weights and Measures officers.

- Alcoholic drinks such as beers and wines will be kept in a separate area away from soft drinks.”

36 APPLICATION FOR A NEW CHARLES STREET & ENVY, 8 MARINE PARADE, BRIGHTON

36.1 The Panel considered a report of the Director of Public Health in relation to an application for a New Premises Licence under the Licensing Act 2003 for Charles Street and Envy, 8 Marine Parade, Brighton. In attendance were Ms C Eames (Popleston Allen) and Mr P Wright (Operations Director) on behalf of the Applicant Stonegate Pub Company Limited, Mr S Ventum (Counsel. Sussex Police), Sergeant B Hearth and Acting Chief Inspector R Apps (Sussex Police) and Mr R Rolfe, Mr T Scoble and Dr J Thomas attended to object to the application.

Introduction by Licensing Officer

36.2 The Licensing Officer stated that this was an application for a new premises licence for Charles Street & Envy, 8 Marine Parade, Brighton. The application stated that the premises were split into two distinct customer trading areas; on the ground floor was Charles Street which operated as a sea front bar with casual dining, and on the first floor was Envy, a bar venue providing entertainment in the form of music, dancing, DJ's and club nights. The application sought to trade 7 days a week with alcohol for consumption on and off the premises from 11.00 am to 02.00 am Sunday to Wednesday and from 11.00 am to 05.00 am Thursday to Saturday. The same hours were also requested for the licensable activities of Films (the exception to this was a start time of 07:00 am), with indoor sporting events, live music, recorded music, performance of dance, anything of a similar description and late night refreshment with a start time of 11.00 am. The application sought opening hours half an hour after the terminal hour each day so 02.30 am Sunday-Wednesday and 05.30 am Thursday to Saturday. In addition to this the application sought a further hour on a number of days which were listed on page 33 of the agenda. There was already a premises licence in force at this venue (Charles Street and Envy licence reference 1445/3/2010/02329/LAPRET) which allowed all of the licensable activities applied for in this application Sunday – Wednesday: 11:00 – 02:00 and Thursday – Saturday: 11:00 – 03:00. The applicant had indicated that they would surrender the existing licence should the panel be minded to grant this application. The premises fell within the Cumulative Impact Area. Many of the conditions suggested in appendix C (page 30 of the agenda) of the Statement of Licensing Policy had been included in the applicants operating schedule which could be found on pages 45-47 of the agenda and pages 37-38 of the addendum in their amended operating schedule. This included conditions regarding provision of CCTV, BCRP membership, Pubwatch participation, written drugs policy, written dispersal policy, conditions to manage smokers, refusals log, Challenge 21 policy and signage and staff training. The Licensing Authority had received 4 representations. They were received from local residents, a Resident Association, and Sussex Police. The representations had concerns relating to Prevention of Crime and Disorder, Cumulative Impact and the Prevention of Public Nuisance. Representations were also received by the Licensing Authority and Environmental Protection Team but subsequently withdrawn following consideration of the operating schedule, evidence bundle and agreed conditions including the management and supervision of smokers. In light of this and further to the evidence submitted, the Licensing team had withdrawn its representation satisfied that the applicant had demonstrated exceptional circumstances and would not

negatively impact on the Cumulative Impact Area. The agreed conditions appeared on page 35 of the evidence bundle submitted by the applicant last week, page 37-38 of the addendum. Representations were attached at Appendix D from page 55 of the agenda. The Statement of Licensing Policy stated that applications which were likely to add to the existing cumulative impact would be refused following relevant representations. This presumption of refusal could be rebutted by the applicant if they could show that their application would have no negative cumulative impact on Licensing Objectives. Furthermore, this special policy was not absolute. Upon receipt of a relevant representation, the Licensing Authority would always consider the circumstances of each case and whether there were exceptional circumstances to justify departing from its special policy in the light of the individual circumstances of the case. If an application was unlikely to add to the Cumulative Impact of the Area, it may be granted.

Questions to the Licensing Officer

- 36.3 The Chair asked if it was known why the Environmental Protection Team had withdrawn their representation. The Licensing Officer said that they weren't able to comment on behalf of the Environmental Protection Team. However, the solicitor said that they would have been satisfied that the applicant had demonstrated exceptional circumstances.

Representations

- 36.4 Mr Ventum said that the Police were concerned with two areas. The first was the extension of hours as outlined in Appendix C & D, and the second was the extension of the terminal hour by one hour on certain notable dates. The applicant had based their application on the desire to reduce homophobic incidents, but that had not been shown in their evidence. Only two situations of homophobic abuse had been recorded; verbal abuse to staff on 14 August 2015 and harassment of a transvestite male on 28 June 2015. Mr Ventum accepted those were both unpleasant incidents, but they would not have been avoided if the premises had closed an hour later. Closing at 5.00 am would mean that the premises would shut, and people be leaving, after Operation Marble stopped at 4.00 am. The Police were also concerned that a £1 drinks promotion on a Thursday would be extended for an additional two hours if the new licence were granted. The premises were located in Queens Park area which ranked high on alcohol related admissions, and extending the drinks promotion could exacerbate the situation. Mr Ventum concluded by saying that the presumption was that the application would not be granted unless exceptional circumstances could be shown.
- 36.5 The Chair asked if there were questions to the Police, but there were none.
- 36.6 Mr Rolfe said he agreed with the Police's concerns. He said that he represented people who were disturbed during the night from people leaving the premises, and an extension to the opening hours would only prolong that.
- 36.7 Dr Thomas said that these were large premises, with a potential capacity in excess of 250, which was situated within a residential area and within the Cumulative Impact Zone. The Statement of Licensing Policy stated that applications which were likely to add to the existing cumulative impact would be refused following relevant representations, and that should not be ignored. The applicant had stated that there would be a designated smoking area, which would stop customers smoking outside of the premises, but the smoking terrace would accommodate 25 people and that would still create noise. The applicant had said that the extension of the closing time would mean that customers would leave gradually over a longer period of time in smaller

groups which would reduced the noise, but the reality would be that the noise would continue even later than at present.

- 36.8 Mr Scoble said that an extension to the hours would impact on nearby residents' peaceful enjoyment of their properties. At the moment the disturbance from customers leaving nearby premises was affecting people and depriving them of sleep. Currently there was a bottle collection at 5am which was particularly disturbing. He asked that if the application were granted that there be a condition that the outside of the premises were cleaned on a regular basis and that any bottle collection was not done before 9.00 am.
- 36.9 The Chair asked for questions, but there were none.

Representation from the Applicant

- 36.10 Ms Eames said that the premises had been owned by Stonegate Pub Company Limited for five years, and the company had other venues both locally and nationally. The previous licence was outdated, with a reduced number of standard hours, and had Conditions which needed to be reviewed. As the premises were within the Cumulative Impact Zone it was considered preferable to apply for a new licence rather than request numerous changes to the current licence. The key changes would be an extension of the licensable activities, which would only be a further six hours a week, a revision of the Conditions and better management of smokers in Charles Street. Ms Eames said that the application had not been sought 'to reduce homophobic incidents'. The application would not add to the cumulative impact in the area, but would in fact reduce noise. As the premises closed early than nearby venues, there was evidence to show that customers left this venue and then went to another place, which resulted in 'double migration'. If the premises were open later, customers were likely to not move elsewhere. There was no evidence of crime and disorder at the premises. The company had a number of premises across the country and were well run, with staff fully trained, members of BCRP and the manager was the Vice Chair of Pubwatch. The venue was popular and good for the local economy. If the new licence were granted the company would invest in the business and improve the premises. The company would work with the local community to ensure any disturbance was kept to a minimum. Drinks promotions had been carefully operated over the last five years with no major incidents. The offer the Police referred to was on bottle of beers and Sour Shots, (which was a low alcohol drink). All promotions were reviewed on a regular basis. If the Police were particularly concerned, the company would remove the drinks promotion. With regard to bottle collection, that would be reviewed with an undertaking that it was not done before 7.00 am. The application had been made as it was not felt that the current licence was fit for purpose, and the new licence would support the Licensing Objectives. With regard to the two homophobic incidents the Police referred to, the first were not made by customers of the premises, but people who wanted to enter and staff refused them entry which showed good management of the premises. The second incident took place inside the venue where a customer got into an agreement with another person and tried to remove their wig; both parties were ejected from the premises. Ms Eames concluded by saying that there was no evidence that a change to the licence would impact on Crime and Disorder in the area.
- 36.11 The Chair invited questions for the applicant.

- 36.12 The Chair why a variation to the current licence had been made, rather than applying for a new licence. Ms Eames said that it was felt that the current licence, particularly the Conditions were out of date and not fit for purpose and therefore it was tidier to apply for a new licence.
- 36.13 The Police noted that it had been stated that if the new licence were granted that the company would invest further in the business and suggested the premises should be maintained regardless of the outcome of the application. Ms Eames said that the premises would certainly be maintained, but an extension of hours would lift the business and justify a refurbishment of the venue. The Police noted that Challenge 21 would be enforced and asked why that would not be Challenge 25. Ms Eames said they would be happy for that to be applied. The Police asked whether ID Scanners would be used, but Ms Eames said that she didn't think it would be warranted. The Police suggested that the application was only being made for commercial reasons. Ms Eames said the company wanted to operate a good business in the city which in turn would ensure jobs for local people. Mr Ventum said that application asked for an extension of time on notable days and suggested that granting that would be a means of circumventing applying for a TEN.
- 36.14 Councillor Noonan noted the argument that a later closing time would alleviate double migration, and suggested that having the same closing time as other nearby venues would mean more people leaving at the same time and so possibly increase the possibility of antisocial behaviour. Ms Eames said that a later closing time could lead to people only leaving the one premises, rather than two. There were bus stops and taxi ranks nearby and so customers would be able to disperse quickly and efficiently.
- 36.15 Dr Thomas questioned the rationale behind creating a smoking area to reduce noise. The applicant said that currently smokers were outside the premises, with no limit on how many people there could be. With a designated smoking area limited to 15 people, would ensure that there would be fewer people, away from the public area and therefore there would be less noise.
- 36.16 Mr Scoble asked what interaction the company had with local people. Ms Eames said that the company had liaised with the Licensing Authority, Environmental Health and had written to local residents to advise them of the application. Mr Scoble asked if the company had spoken to LACs, and was advised they hadn't.

Final Observations/Summing up

- 36.17 Mr Ventum said that the Police were concerned that the application asked for a closing time of 05.00 which was after Operation Marble ended, that the premises were located within the Cumulative Impact Zone and that people drinking later would only add to the cumulative impact. He asked that Panel that if they were minded to grant the licence that they be consulted on possible conditions.
- 36.18 Dr Thomas said that the proposals did not show that there were exceptional circumstances to grant the new licence. She added that the venue was enjoyed by friends and she hoped it remained, but not with an extension to its hours.

- 36.19 Ms Eames said that a new licence would better promote the licensing objectives, smokers would be contained in one area, there was no evidence that longer hours would lead to Crime and Disorder, there was concern at speculation at what might happen if the new licence were granted but that was not justified. The company wanted to secure a viable and good business within the Cumulative Impact Zone. Ms Eames said that if the Panel were not minded to grant the new licence that they look at the suggested new Conditions particular with regard to smokers.
- 36.20 The Licensing Officer said that this was an application for a new premises licence for Charles Street & Envy, 8 Marine Parade, Brighton. The application sought to trade 7 days a week with alcohol for consumption on and off the premises from 11.00 hours to 02.00 hrs Sunday to Wednesday and from 11.00 hrs to 05.00 hours Thursday to Saturday. The same hours were also requested for the licensable activities of Films (start time of 07:00 hours), indoor sporting events, live music, recorded music, performance of dance, anything of a similar description and late night refreshment. The application states the opening hours will be half an hour after the terminal hour each day so 02.30 hrs Sunday-Wednesday and 05.30 hours Thursday to Saturday.

The representations were asking you to consider refusing the application in regards to the licensing objectives of the Prevention of Crime and Disorder, Cumulative Impact and the Prevention of Public Nuisance. You have heard from all the parties present.

The premises fell within the Cumulative Impact Area and this Special Policy would only be overridden in exceptional circumstances. The effect of this Special Policy was that applications which were likely to add to the existing Cumulative Impact, would be refused following relevant representations. This presumption could be rebutted by the applicant if they could show that their application would have no negative Cumulative Impact.

The question for the Panel was whether they considered that the application was likely to add to the existing Cumulative impact and/or had the applicant demonstrated that their application would not have a negative impact?

If it is was unlikely to add to the Cumulative Impact or the applicant had demonstrated that it would not impact then the Panel should consider granting the application, and any conditions to meet Licensing Objectives and to control cumulative impact should be clear, precise and enforceable. The penalties for breaching conditions were severe, with a maximum fine of £20,000 and/or 6 months imprisonment, so this was particularly important.

The Licensing Guidance stated 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 were appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- the Guidance;
- its own statement of licensing policy

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

If the panel believed the application would add to the existing Cumulative Impact and the applicant had failed to demonstrate how they would counteract that negative impact then the Panel should consider refusal. If the Panel decided to refuse, it would need to demonstrate that granting would undermine a Licensing Objective and conditions would be ineffective in preventing problems.

36.21 The Chair advised that the hearing was now concluded, and the Panel would advise all parties of their decision in due course.

36.22 For the record the Panel's decision, which was sent to all parties after the hearing was as follows:

The panel has read all the papers including the report, relevant representations, evidence bundle of the Applicant and papers from the Police. The panel has listened carefully to all the submissions and arguments put forward at the hearing.

This is an application for a new premises licence within the Cumulative Impact Zone (CIZ) and therefore subject to the special policy on cumulative impact as set out in the Statement of Licensing Policy. The panel notes that there is an existing licence in respect of the same premises. The Applicant seeks to replace this licence with a new licence with updated conditions, in particular in relation to the smoking area, and an extension of hours for the sale of alcohol and other licensable activities until 05.00 hours on Friday and Saturday, with a closing time of 05.30.

Our policy states that applications for new premises licences, or variations which are likely to add to cumulative impact, will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative cumulative impact. The special policy will only be overridden in exceptional circumstances. The Policy is not absolute. We must consider each application on its merits. We must consider whether there are exceptional circumstances to warrant a departure from our policy. The fact that a premises will be exceptionally well managed with a well-qualified applicant will not be considered exceptional under the policy.

The panel has considered the individual circumstances and merits of this application as put forward by the applicant. The Applicant's case is that their customers wish to stay in the premises for the duration of their night out, rather than have to leave go to other later opening venues in the area. Extending the terminal hour to 05.00 will thus, they claim, prevent double migration of customers leaving their premises and another premises later on, as opposed to keeping their customers within their premises, who will then disperse gradually to their homes. They have conducted customer exit surveys which support this. It is argued that there will therefore be no negative cumulative impact and even a positive impact and that thus the application should be considered as an exception to the policy. The panel notes that the Licensing authority and the Environmental Health team representations have been withdrawn on the basis that they are satisfied that it is exceptional and will not add to problems of cumulative impact.

The panel has considered the submissions made on behalf of the police and local residents who all contend that later hours on Friday and Saturday will increase problems in the area especially in relation to public nuisance but also crime and disorder because

more people will be dispersing later and that further this will create operational challenges for the police as operation Marble ends at 4am.

In carefully weighing up the arguments the panel are not convinced by the case of the applicant. When questioned there were few details given of the customer exit polls conducted and they have not been produced. The panel consider that later hours will attract more people into the premises who will disperse later into the night having consumed more alcohol into an already saturated and challenging area thus adding to existing problems. In this respect the panel share the concerns of the police and local residents. The panel recognise the many excellent practices of the premises and have considered the last entry time proposed of 3am but do not consider these will mitigate the likely negative cumulative impact when customers leave the premises. This is the essence of cumulative impact and of the policy.

Upon the suggestion of the applicant at the end of the hearing, the panel has decided to grant the application in part. The new operating schedule conditions (at page 37 of the paginated applicant's bundle) with the exception of condition 7 relating to last admission, the imposition of Challenge 25 (rather than 21) but including those relating to the smoking area, are accepted and attached. The panel consider these will promote the licensing objectives. However the licensable activities and opening hours and times for those (apart from Film which is granted from 07.00 hours), are to remain as per the existing licence including the non-standard timings. This is because, as explained above, the panel consider allowing later hours for such activities is likely to add to existing cumulative impact and undermine the licensing objectives.

The meeting concluded at 2.30pm

Signed

Chairman

Dated this

day of