

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

10.00am 26 APRIL 2021

VIRTUAL

MINUTES

Present: Councillors Deane (Chair), Appich and Simson

Officers: Sarah Cornell, Senior Licensing Officer; Rebecca Sidell, Lawyer and Penny Jennings, Democratic Services Officer.

PART ONE

1 TO APPOINT A CHAIR FOR THE MEETING

1.1 Councillor Deane was appointed Chair for the meeting.

2 PROCEDURAL BUSINESS

2a Declaration of Substitutes

2.1 There were none.

2b Declarations of Interest

2.2 There were none.

2c Exclusion of the Press and Public

2.3 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).

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

3 APPLICATION FOR A NEW PREMISES LICENCE, WEEZY FULFILMENT CENTRE, 8 & (LOWER GOODS YARD, TRAFALGAR STREET, BRIGHTON

- 3.1 The Panel considered a report of the Executive Director of Housing, Neighbourhoods and Communities requesting that the Panel determine an application for a New Premises Licence under the Licensing Act 2003 for Weezy Fulfillment Centre, 8 & 9 Lower Goods Yard, Trafalgar Street, Brighton.

Presentation by the Licensing Officer

- 3.2 The Licensing Officer, Jo Osborne, gave a presentation detailing the application which proposed a locally based home grocery delivery centre. The premises would not be open to the public and grocery shopping which would include alcohol would be delivered to the customer via electric vehicles. One representation had been received from Sussex Police relating to the Prevention of Crime and Disorder and the Protection of Children from harm. It was noted that the Premises fell within the Special Stress Area, an area which was deemed to be of special concern in terms of the levels of crime, disorder and public nuisance experienced within them.
- 3.3 Three representations had been received, from a Resident Association, Sussex Police and from the Licensing Authority. These representations had raised concerns relating to the Prevention of Crime and Disorder, location in the Special Stress Area and the Protection of Children from Harm. Full details of these were set out in the circulated paperwork.

Submission on Behalf of Sussex Police

- 3.4 The Police represented by Hannah Staplehurst, PC Bernascone and PS Lam outlined their concerns in respect of this new premises licence application. It was explained that the applicants had pre-consulted with the Police and had amended their terminal hour accordingly. It was proposed that alcohol would be delivered to places of business and residential addresses and the Police had concerns that the alcohol would be delivered to local areas in the Special Stress Area or as far as the Cumulative Impact Area which suffered from high incidence of crime and disorder. Their concerns were far greater than in respect of the application by the same applicant which followed this one given that this premises was located in the Special Stress Area.
- 3.5 The Police had concerns about delivery drivers having the confidence to refuse a delivery on the doorstep and over the increased number of two wheeled vehicles on the road. Their current operation, Operation Mainstay was focussed on reducing the numbers of road collisions resulting in killed or seriously injured persons on powered two wheeled vehicles. They had concerns that this business operation would add more vehicles onto the roads and possibly therefore increase the number of people seriously injured or killed as well as vehicle document related offences. There were also concerns over the crime and disorder in the city and the areas to where alcohol would be delivered too gave an added concern in terms of protecting children from harm.
- 3.6 The police concerns were rooted primarily in the location of the premises on the border of the Cumulative Impact Zone. They presented crime statistics for the area in which deliveries would take place and pointed to a high level of alcohol related crimes in 2020 notwithstanding the lockdowns and covid 19. They were concerned that deliveries would be to the CIZ and that the fast delivery turnaround would be attractive to Airbnb's

or party houses. Further concerns were associated with alcohol deliveries and the potential for proxy sales. They acknowledged that there had been pre-consultation with the applicant but concerns remained and they wished the application to be scrutinised by the panel.

Submission on Behalf of the Licensing Authority

- 3.7 The Senior Licensing Officer, Sarah Cornell was in attendance in support of the objections raised by the Licensing Authority. The licensing authority shared the same concerns as those put forward by the Police in relation to the location of the premises and the policy context and the unique challenges that alcohol deliveries could present.

Submission on Behalf of Residents Association

- 3.8 Sandy Crowhurst and Roy Skam were in attendance on behalf of the North Laine Community Association in their capacity as Licencing Co-ordinators speaking on behalf of Local Residents. They fully supported the concerns raised by the Police and the Licensing Authority and were particularly concerned that safety issues arose as a result of delivery bikes travelling through narrow local streets; also, that this outlet would appeal to hen and stag parties who used Airbnbs in and around the North Laine Area
- 3.9 This small tight knit residential area was already saturated with licensed premises and they believed that if this licence were to be granted it would add to the existing cumulative impact and would undermine the licensing objectives.

Submission by the Applicants

- 3.10 The applicants were represented by Lisa Sharkey, their legal representative from Poppleston Allen, Emma Jones of Weezy Fulfilment, Marion Adler their Director of Operations and Adam Crombie who would be their store manager. Both the applicant and Poppleston Allen had pre-consulted with Sussex Police and had taken their considerations on board and had included a copy of their intended alcohol policy with their application entitled "Alcohol Delivery and Age Verification Policies and Procedures" and conditions had also been offered. This documentation had been circulated to the Panel Members in advance of the hearing that day and had also been uploaded to the Council website.
- 3.11 The applicant's legal representative amplified on questions by the Panel Members in respect of how their operation would be run and any mitigation measures they proposed in order to address the Police' and Licensing Authority's concerns, bearing in mind that this premises was located in the Special Stress Area and the concerns that had also been expressed in relation to deliveries being made into the neighbouring Cumulative Impact Area. Also, the raised by the North Laine Community Association on behalf of local residents. They also responded to detailed questions from the Panel. These are set out below and were integral to their deliberations in arriving at their decision which is also set out below.

Closing Submissions

- 3.12 Once the point had been reached when no further issues were raised and following the closing submission by the Licensing Officer each of the other parties gave their closing submissions re-iterating the points that they had raised during the course of the meeting. The Panel then deliberated on the matter and made their determination

The Decision

- 3.13 The Chair stated that the Panel had read all the papers including the report, relevant representations and further document from the applicants, and had listened to all the submissions made that day by all parties. Having considered the objection and submissions from Sussex Police, on behalf of the Licensing Authority, on behalf of the Local Residents Association and submissions from and on behalf of the premises user.
- 3.14 The application fell within the Special Stress Area (SSA) as defined in the Statement of Licensing Policy which was an area of concern to the licensing authority because of the relatively high levels of crime and disorder and nuisance experienced with in it. The application was for a locally based home delivery grocery centre for sale of alcohol off the premises from 07:00 to 23:00 hours each day. The premises were not open to the public and off sales of alcohol would be exclusively by delivery on electric bicycles or mopeds usually within 15 minutes of the order being placed. Relevant representations had been received from Sussex Police, the Licensing Authority and a local residents association. The concerns raised related to the prevention of crime and disorder, prevention of public nuisance objectives and cumulative impact.
- 3.15 The police' concerns were rooted primarily in the location of the premises on the border of the Cumulative Impact Zone. They presented crime statistics for the area in which deliveries would take place and pointed to a high level of alcohol related crimes in 2020 notwithstanding the lock downs and covid 19. They were concerned that deliveries would be to the CIZ and that the fast delivery turnaround would be attractive to Airbnb's or party houses. Further concerns were associated with alcohol deliveries and the potential for proxy sales. They acknowledged that there had been pre-consultation with the applicant but concerns remained and they wished the application to be scrutinised by the panel. Similarly, the licensing authority had expressed concerns about the location of the premises and the policy context and the unique challenges that alcohol deliveries could present. The resident's association endorsed the police concerns about the area and the saturation of licensed premises and were particularly concerned about potential for delivery to hen and stag parties linked to Airbnb's in the area and associated anti-social behaviour of which they had direct experience.
- 3.16 On behalf of the applicant it had been submitted that these premises did not fit into the category of a standard off licence and that the fresh produce and grocery element was key and that alcohol was ancillary to this element. This is supported by sales figures from London in which alcohol is a relatively small percentage of sales. It had been suggested that there were more appropriate apps and premises for the delivery of alcohol some 24 hours and that delivery to Air Bn Bs or party houses was not part of their business model. The drivers were direct employees and not 3rd part contractors. There had been pre-consultation with the police and licensing authority. A number of conditions had been offered in the operating schedule and there was an effective age verification and alcohol policy. As such it had been submitted that departure from the Matrix in this case was appropriate and that this application should be granted.

3.17 The panel had considered this application carefully on its merits and was aware of the location of the premises within the SSA but very close to the border of the CIZ including the North Laine area. The panel appreciated the arguments presented by the applicant about the nature of the operation and recognised that there were some good policies and conditions proposed. However the panel had also noted that when conditions were canvassed such as deliveries to the named card holder, or alcohol linked to food orders, the applicants had been very reluctant to countenance such further measures save for a 'sensible on strength' condition. The Panel considered that in licensing terms this was an alcohol delivery service and as such came within the category of an off licence for the purposes of the Statement of Licensing Policy and the Matrix. The panel shared the concerns of the police and the residents in relation to the location of the premises within the SSA on the border of the CIZ. This was a challenging area which had high numbers of visitors and could be described as a tourist and party destination. The panel has concerns that another premises offering fast alcohol delivery in this area was likely to add to the problems of anti-social behaviour and crime and disorder already experienced in this city centre location. The application was not, in the panel's view, exceptional to warrant departure from the policy. The panel shared the concerns of those making representations and considered that granting this application would undermine the licensing objectives. The application was therefore refused.

3.18 **RESOLVED** – That for the reasons set out above the application for a New Premises Licence under the Licensing Act 2003 by Weezy Fulfilment Centre, 8 & 9 Lower Goods Yard, Trafalgar Street, Brighton be refused.

Note: The Legal Adviser to the Panel advised that the applicants would be notified of the Panel's decision in writing with details of their appeal rights attached.

4 APPLICATION FOR A NEW PREMISES LICENCE, WEEZY FULFILMENT CENTRE, UNIT B, NEW TOWN ROAD ESTATE, NEWTOWN ROAD, HOVE

3.1 The Panel considered a report of the Executive Director of Housing, Neighbourhoods and communities requesting that they determine an application for a New Premises Licence under the Licensing Act 2003 by Weezy Fulfilment Centre, Unit 1B, Newtown Road Estate, Newtown Road, Hove.

Presentation by the Licensing Officer

3.2 The Licensing Officer, Jo Osborne, gave a presentation detailing the application which proposed a locally based home grocery delivery centre. The premises would not be open to the public and grocery shopping which would include alcohol would be delivered to the customer via electric vehicles. One representation had been received from Sussex Police relating to the Prevention of Crime and Disorder and the Protection of Children from harm. It was noted that the Premises did not fall in the Cumulative Impact Area or the Special Stress Area.

Submission on Behalf of Sussex Police

3.3 The Police represented by Hannah Staplehurst, PC Bernascone and PS Lam outlined their concerns in respect of this new premises licence application. It was explained that

the applicants had pre- consulted with the Police and had amended their terminal hour accordingly. It was proposed that alcohol would be delivered to places of business and residential addresses and the Police had concerns that the alcohol would be delivered to local areas in the Special Stress Area or as far as the Cumulative Impact Area which suffered from high incidence of crime and disorder. Their concerns were essentially the same as those set out in respect of the previous application considered in respect of the same applicant.

- 3.4 The Police had concerns about delivery drivers having the confidence to refuse a delivery on the doorstep and over the increased number of two wheeled vehicles on the road. Their current operation, Operation Mainstay was focussed on reducing the numbers of road collisions resulting in killed or seriously injured persons on powered two wheeled vehicles. They had concerns that this business operation would add more vehicles onto the roads and possibly therefore increase the number of people seriously injured or killed as well as vehicle document related offences. There were also concerns over the crime and disorder in the in the city and the areas to where alcohol would be delivered too gave an added concern in terms of protecting children from harm.

Submission by the Applicants

- 3.5 The applicants were represented by Lisa Sharkey, their legal representative from Poppleston Allen, Emma Jones of Weezy Fulfilment, Marion Adler their Director of Operations and Adam Crombie who would be their store manager. Both the applicant and Poppleston Allen had pre-consulted with Sussex Police and had taken their considerations on board and had included a copy of their intended alcohol policy with their application entitled "Alcohol Delivery and Age Verification Policies and Procedures" and conditions had also been offered. This documentation had been circulated to the Panel Members in advance of the hearing that day and had also been uploaded to the Council website.
- 3.6 The applicant's legal representative amplified on questions by the Panel Members in respect of how their operation would be run and any mitigation measures they proposed in order to address the Police's concerns. They also responded to detailed questions from the Panel. These are set out below and were integral to their deliberations in arriving at their decision which is also set out below.

Closing Submissions

- 3.7 Once the point had been reached when no further issues were raised and following the closing submission by the Licensing Officer each of the other parties gave their closing submissions re-iterating the points that they had raised during the course of the meeting. The Panel then deliberated on the matter and made their determination.

The Decision

- 3.8 The Chair stated that the Panel had read all the papers including the report, relevant representations and further document from the applicants, and had listened to all the submissions made that day by all parties. Having considered the objection and submissions from Sussex Police, on behalf of the Licensing Authority and submissions from and on behalf of the premises user.

- 3.9 The application was for a locally based home delivery grocery centre for sale of alcohol off the premises from 07:00 to 23:00 hours each day. The premises were not open to the public and off sales of alcohol would be exclusively by delivery on electric bicycles or mopeds usually within 15 minutes of the order being placed. A relevant representation was received from Sussex Police. The police concerns were mainly about the potential delivery points into the Special Stress Area or even the Cumulative Impact Zone and concern over proxy sales. They presented crime statistics for the area in which deliveries would take place and had asked that the panel scrutinised this application.
- 3.10 On behalf of the applicant it was submitted that these premises did not fit into the category of a standard off licence and that the fresh produce and grocery element was key and that alcohol was ancillary to this element. This was supported by sales figures from London in which alcohol was a relatively small percentage of sales. Their ideal customers were families in the local area. The drivers were direct employees and not 3rd party contractors. There had been pre-consultation with the police and licensing authority. A number of conditions had been offered in the operating schedule and there was an effective age verification and alcohol policy.
- 3.11 The panel had considered this application carefully on its merits. The application was in the 'other areas' category of the Matrix where off licences were generally supported until 11pm or earlier if there were resident concerns. There had been no representations from residents for this application. The panel had been able to question the applicants about their operation. The delivery zone for Hove would be different to that of the Brighton premises, and they would operate an internal geo-fence system. The panel appreciated the arguments presented by the applicant about the nature of the operation and recognised that there were some good policies and conditions proposed. The applicant further agreed to a condition as follows:
- No beer, lager, cider or perry with an ABV over 6% or above shall be sold at the premises save that this shall not apply to premium beer, lager, cider or perry with an ABV over 6% or above such as craft or speciality brands or brands produced by a micro-brewery, or brands produced to commemorate a national or local event.

The panel had decided to grant this application with the above condition to be attached to the licence along with those in the operating schedule. Within this location and with the conditions and measures proposed the panel considered that the licensing objectives would be promoted.

- 3.12 **RESOLVED** – That for the reasons set out above the application for a New Premises by Weezy Fulfillment Centre, Unit B, New Town Road Estate, Newtown Road, Hove be approved subject to the condition(s) set out above.

Note: The Legal Adviser to the Panel explained that the applicants would be notified of the Panel's decision in writing with details of their appeal rights attached.

The meeting concluded at 12.20pm

Signed

Chair

Dated this

day of