

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

10.00am 16 JUNE 2021

VIRTUAL
MINUTES

Present: Councillor ; Deane, O'Quinn and C Theobald

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 FISH & CHIPS LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

- 3.1 The Panel considered a report of the Executive Director of Housing, Neighbourhoods and Communities in relation to four temporary event notices in view of a formal objection received to them from the police under section 104(2) of the Licensing Act 2003. The Panel needed to consider whether it was necessary for the promotion of the licensing objectives of the Prevention on Crime and Disorder and the Prevention of Public Nuisance, to issue a counter notice to prevent the events from taking place.

Officer Presentation

- 3.2 The Senior Licensing Officer, Sarah Cornell, explained that these Temporary Event Notices related to the following time periods:

18 – 19 June between 23.00 and 05.00 hrs;
26 – 27 June between 23.00 and 05.00 hrs;
2 - 3 July 23.00 and 05.00 hrs;
9 – 10 July 23.00 and 05.00 hrs.

It was proposed that there would sale of late night refreshment only, there would be no covers after midnight, takeaway only. An objection had been received from Sussex Police on the grounds of the Prevention of Crime and Disorder and the Prevention of Public Nuisance.

Police Representation

- 3.3 Mark Thoroughgood was in attendance on behalf of Sussex Police and spoke in support of their objections. The premises currently had the ability to sell late night refreshments until 3.00am. He referred to the fact that in February of 2021 an application had been made to vary current licence until 03:00 – 05:00 at weekends, that had been refused following a Panel Hearing on 22 April 2021. The Police's original concerns about the premises trading into the early hours due to its close proximity to the main night time economy still stood, the risks that they had grave concerns regarding this, had not be removed. Preston Street had a high footfall and there was a high incidence of crime in the area. The Number of incidence in Preston Street itself and within the immediate vicinity were cited. These were already at saturation point and in answer to questions it was explained that Operation Marble the late night weekend Police operation in the Cumulative Impact Area begun to stand down from 3.00am. It was confirmed that incidence in the area had remained high notwithstanding lockdowns over the previous year. The applicant had been involved with the premises since August 2020, the Police had not been called to the premises, however their concerns in respect of longer hours of operation remained as set out.
- 3.4 The proposal albeit that the premises were not selling alcohol would none-the-less encourage people to stay in the area rather than to encourage dispersal. The premises were located towards the end of Preston Street adjacent to the beach. The numbers of vulnerable/potentially vulnerable individuals on the beach late at night following the consumption of alcohol was already high and the call on Police resources and others such as the Beach Patrol. Panel Members and Mr Perkins who was present on behalf of the applicants had the opportunity to ask questions of the Police representative.

Presentation on Behalf of the Applicants

- 3.5 The applicant Mr Abbanoub Samir Gad Salama was in attendance but did not address the Committee, Mr Perkins his legal representative spoke in support of his application and responded to questions put by the Panel and the Police' representative on his behalf.
- 3.6 Mr Perkins contended that following refusal of the earlier application to vary the licence it would be very difficult for the applicant to demonstrate that the proposed hours of operation would not exacerbate existing problems. Although TENS were usually applied for in respect of specific events by applying for a limited number of TEN's it would provide the opportunity to do so, the applicant could then consider their position and whether they wished to re-apply to vary the existing licence in future.
- 3.7 The premises would not encourage anyone into the area but would provide refreshment for those who were there already. It was recognised that queuing could give rise to incidents when those doing so had consumed alcohol but if another premises was open it would reduce queues and therefore the capacity for that to happen. Each application needed to be considered on its merits and the premises sold fish and chips no alcohol sales were involved. Litter generation had also been mentioned but no objections had been received from Environmental Health on those grounds.
- 3.8 Mr Perkins did not agree that this use could result in greater use of local open spaces including the beach area by those who had purchased food from the premises and looked for somewhere to consume the food purchased. These applications were valid temporary event notices and were lodged in order to gather evidence to inform a possible further variation application. It was contended that the extended times would not add to issues in the area and that a further food outlet would be beneficial and ease pressure on other outlets.

Closing Submissions

- 3.9 The Senior Licensing gave her closing submission and reminded the Panel of the issues which they needed to consider in deciding whether or not to issue a counter notice.
- 3.10 The Police representative re-iterated their concerns and the rationale for them.
- 3.11 The applicant's representative re-iterated their contention that the proposed hours of operation would ease rather than intensify existing issues and would provide the applicant with the opportunity to evidence that was the case.

The Panel's Decision

- 3.12 The Panel considered the TEN's applied for on the following dates:

18th to 19th June between 23.00 hrs and 05.00 hrs,
25th to 26th June between 23.00 hrs and 05.00 hrs
2nd to 3rd July between 23.00 hrs and 05.00 hrs
9th to 10th July between 23.00 hrs and 05.00 hrs

- 3.13 Having considered the objection notice and submissions from Sussex Police and submissions from and on behalf of the premises user, the Licensing Panel (Licensing Act 2003 Functions) resolved to give the premises user a counter notice. **The effect of this counter notice was to prevent the events from going ahead.**
- 3.14 The Panel considered that the issue of a counter notice for all 4 events was appropriate for the promotion of the prevention of crime and disorder and prevention of public nuisance licensing objectives.
- 3.15 The police had expressed concerns about the location and timing of the events. The location of the premises is in the Cumulative Impact Zone (CIZ) as identified in the Statement of Licensing Policy. The police considered that such extended hours for late night takeaway in this location which is close to the centre of the night time economy would add to the problems of crime and disorder and public nuisance already in the area and hinder effective dispersal and challenge police resources. In addition increased use of public spaces such as the beach, squares and lawns would exacerbate these issues with an potential increase in noise and disturbance and litter. On behalf of the applicant and premises user it was stated that these applications were valid temporary event notices and were lodged in order to gather evidence to inform a possible further variation application. It was contended that the extended times would not add to issues in the area and that a further food outlet would be beneficial and ease pressure on other outlets.
- 3.16 The Panel must decide these applications on their merits and take appropriate action to promote the licensing objectives. The Panel shared the police concerns that the provision of late night refreshment until such extended hours in this location which is saturated with licensed premises and in the CIZ will have a negative impact on the licensing objectives especially the prevention of crime and disorder and public nuisance. The police have provided evidence of the challenges this area faces and the associated crime and disorder and public nuisance. The panel consider that the provision of takeaway food until the early hours at these times will have the likely effect of hindering dispersal in this challenging area thus increasing the risk and the likelihood of crime and disorder and public nuisance. It will also put pressure upon police and other resources. The hours of these applications extend beyond operation Marble. The Panel was further concerned about the use of neighbouring public spaces including the beach and residential squares into the early hours by groups who might congregate there to eat takeaway food having already consumed alcohol and thus lingering longer in the vicinity. This would be likely to lead to further public nuisance to residents and excessive litter and further challenges to the police and other services. The Panel were unable to modify temporary event notices and there were very limited conditions on the premises licence.
- 3.17 The Panel was of the view that these temporary events would not promote the licensing objectives and that it was appropriate to give this counter notice for all 4 events.
- 3.18 **RESOLVED** – That a counter notice be issues in respect of Fish and Chips, 86-87 Preston Street, Brighton for the reasons set out above.

Note: Correspondence sent to the applicant's included details of their appeal rights.

The meeting concluded at 12.00pm

Signed

Chair

Dated this

day of