

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

10.00am 5 AUGUST 2021

VIRTUAL

MINUTES

Present: Councillors ; Deane (Chair), Simson and C Theobald

Officers: Liz Woodley, Senior Lawyer, Sarah Cornell, Senior Licensing Officer 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 GETIR UK LIMITED LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

- 3.1 The Panel considered a report of the Executive Director of Neighbourhoods, Communications and Housing requesting that they determine an application for a new premises licence by Getir Ltd, Unit 11, St Joseph's Business Park, St Joseph's Close, Hove.

Presentation by the Licensing Officer

- 3.2 The Senior Licensing Officer, Sarah Cornell explained that this was an application for a New Premises Licence under the Licensing Act 2003. The application proposed a delivery service of groceries & conveniences items including alcohol between the hours set out in the report. The premises was not located in the CIZ or SSA, however, two representations had been received on behalf of Sussex Police and the Licensing Authority on the grounds of Prevention of Crime and Disorder, Prevention of Public Nuisance and Protection of Children from Harm.
- 3.3 This application fell within the Licensing Authority's matrix approach, all applications needed to be considered on their individual merits and any conditions added to any permission granted needed to be proportionate and enforceable.

Submission on Behalf of Sussex Police

- 3.4 Hannah Staplehurst was in attendance on behalf of Sussex Police and referred to their representations set out in the submitted paperwork circulated with the agenda papers. The police' concerns were rooted primarily in the risk of late-night alcohol deliveries into the CIZ and SSA. Crime statistics for the city centre were cited and pointed to a high level of alcohol related crimes in 2020 notwithstanding the lock downs and covid 19. Further concerns were associated with alcohol deliveries and the potential for proxy sales.

Submission on Behalf of the Licensing Authority

- 3.5 Emma Grant was in attendance on behalf of Sussex Police and referred to their representations set out in the submitted paperwork circulated with the agenda papers. The objection made by the Licensing Authority was policy-based as that was a lack of evidence to that there were "exceptional circumstances" in the application to allow departure from the Matrix Model.

Submission by the Applicants

- 3.6 Mr Chris Nixon was in attendance on behalf of the applicants in the capacity of their Licensing Agent. Laurie of Paralegal was in attendance on behalf of the applicants. Paulo Ferreira and Rob Santos were also in attendance on behalf of Getir Ltd.
- 3.7 In response to detailed questions by the Panel Members In the presentation on behalf of the applicant company, and in answer to questions we were provided with a great level of detail about the application and Getir's operating method, this included the following information:-
- Getir has delivery hubs throughout the UK

- The St Josephs Close premises have already opened and have not given rise to anti-social behaviour or noise nuisance.
- Alcohol sales are a small, but important, part of the delivery business. The company's experience elsewhere shows that they decrease throughout the night
- 17.00 to 21.00 hours is the company's busiest period
- As far as possible, Getir employ their own drivers. The drivers undergo an intense training regime, covering areas such as age verification, conflict management and driving and road safety. Drivers are salaried. Delivery vehicles are branded.
- The city's problems with alcohol related crime and anti-social behaviour are acknowledged, but there is no demonstrable link between alcohol delivery and undermining of the licensing objectives.
- The premises do not fit into the category of a standard off licence.
- The applicant has offered a comprehensive set of conditions to be added to the licence – those consistent with the Operating Schedule (pages 19-20 of the agenda) and four additional conditions set out at paragraph 15 of the Case Summary

Closing Submissions

- 3.8 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

- 3.9 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.
- 3.10 The application is for the sale of alcohol for consumption off the premises from 00.00 to 00:00 hours each day as part of a delivery service for groceries and convenience items. The premises are situated outside both the Cumulative Impact Zone (CIZ) and Special Stress Area (SSA), so the application falls to be determined on its own merits. A "matrix" approach to licensing decisions has been adopted. It sets out a framework of what the licensing authority would like to see within its area and gives an indication of the likelihood of success to any applicant. For the purposes of the matrix, St Joseph's Close Hove falls within "other areas". The matrix provides a terminal hour of 11pm for off-licences. The SOLP provides that the matrix will be strictly adhered to, although each application will be considered on its own merits. Departure from the matrix will only be considered in exceptional circumstances.
- 3.11 Relevant representations were received from Sussex Police and the Licensing Authority. The police concerns are rooted primarily in the risk of late-night alcohol deliveries into the CIZ and SSA. had presented crime statistics for the city centre and pointed to a high level of alcohol related crimes in 2020 notwithstanding the lock downs and covid 19. Further concerns were associated with alcohol deliveries and the potential for proxy sales. The Licensing Authority had made a policy-based objection, citing the lack of "exceptional circumstances" in the application to allow departure from the Matrix Model.

- 3.12 In the presentation on behalf of the applicant company, and in answer to questions the Panel had been provided with a great level of detail about the application and Getir's operating method, these had included:-
- Getir has delivery hubs throughout the UK
 - The St Josephs Close premises have already opened and have not given rise to anti-social behaviour or noise nuisance.
 - Alcohol sales are a small, but important, part of the delivery business. The company's experience elsewhere shows that they decrease throughout the night 17.00 to 21.00 hours is the company's busiest period
 - As far as possible, Getir employ their own drivers. The drivers undergo an intense training regime, covering areas such as age verification, conflict management and driving and road safety. Drivers are salaried. Delivery vehicles are branded.
 - The city's problems with alcohol related crime and anti-social behaviour are acknowledged, but there is no demonstrable link between alcohol delivery and undermining of the licensing objectives.
 - The premises do not fit into the category of a standard off licence.
 - The applicant has offered a comprehensive set of conditions to be added to the licence – those consistent with the Operating Schedule (pages 19-20 of the agenda) and four additional conditions set out at paragraph 15 of the Case Summary
- 3.12 The panel had considered this application carefully on its merits. The panel considered that in licensing terms this is an alcohol delivery service and as such comes within the category of an off licence for the purposes of the Statement of Licensing Policy and the Matrix. The was in their view in the 'other areas' category of the Matrix where off licences are generally supported until 11pm or earlier if there are resident concerns. There are no representations from residents for this application.
- 3.14 The Panel acknowledged the suite of conditions put forward by the applicant, but shared the concerns of the police and the licensing authority in relation to late night deliveries of alcohol to the CIZ and SSA. These are challenging areas which have high numbers of visitors and could be described as a tourist and party destinations. The panel has concerns that another outlet offering fast alcohol delivery late at night to these areas is likely to add to the problems of anti-social behaviour and crime and disorder already experienced in these areas. The panel accept that it is not open to it to impose conditions prohibiting the delivery of alcohol to these areas, but this makes restricting the sale of alcohol late at night even more important.
- 3.15 The application was not, in the panel's view, so exceptional as to warrant departure from the 11pm terminal hour for off-licences. The panel noted that section 182 of the guidance that "Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours", and is satisfied that there are good reasons for restricting the hours for the sale of alcohol. The Matrix does not stipulate a start time for licensable activities for off-licences, but based on their local knowledge and experience, the panel consider that a 7

am start time is reasonable for the location. The application would therefore be granted subject to the following conditions: -

Hours for sale of alcohol for consumption off the premises: - 07.00 to 23.00 hours every day

Conditions consistent with the Operating Schedule

The following conditions derived from the Applicant's case summary: -

- i) Deliveries that include alcohol only to be delivered to a verifiable residential or business address, and in any case where it is suspected that is not the case, the sale is to be refused
- ii) All third-party delivery drivers to undergo the same training package as employed delivery drivers.
- iii) A record (which may be electronic) of all sales and deliveries shall be kept for inspection by the Responsible Authorities for a rolling 6-month period
- iv) No sales of alcohol above 6.5% ABV

3.16 **RESOLVED** - That a New Premises Licence be granted to Getir UK Ltd, Unit 11, St Joseph's Business Park, St Joseph's Close, Hove subject to the conditions and additional conditions set out above.

The meeting concluded at 12.34pm

Signed

Chair

Dated this

day of