

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

**10.00am 16 FEBRUARY 2022**

**MINUTES**

**Present:** Councillor Deane (Chair); O'Quinn and Simson

**Officers:** Emma Grant (Licensing Officer), Rebecca Sidell (Lawyer) and Clare Chapman (Democratic Services Officer)

**PART ONE**

**1 TO APPOINT A CHAIR FOR THE MEETING**

Councillor Deane was appointed Chair for the meeting.

**2 PROCEDURAL BUSINESS**

**2a Declaration of Substitutes**

There were none.

**2b Declarations of Interest**

There were none.

**2c Exclusion of the Press and Public**

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).

**RESOLVED** - That the press and public be not excluded from the meeting.

**3 FREE HAUS LIMITED LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)**

In attendance

For the Premises                      Alistair Charlesworth  
   Steven Whitehurst

Making Representation:      Donna Lynsdale, Licensing Authority  
   Claire Abdelkadar, Sussex Police

3.1      The Panel considered a report of the Executive Director of Housing, Neighbourhoods and Communities which required them to determine an application for a new premises licence at Free Haus Limited, 73-75 Kings Road Arches, Brighton, BN1 2FN.

3.2      **Licensing Officer**

The Licensing Officer presented the application and summarised the contents of the report. The Licensing Officer informed the Panel that the Seafront Development Manager who had submitted a representation was not able to attend.

3.3      **Sussex Police**

Ms Abdelkadar advised the Panel that the Applicant had not consulted with Sussex Police prior to submitting their application but they had fully responded to all queries raised by Sussex Police ahead of the hearing.

The Premises lied within Regency Ward which was first highest for serious violence across Sussex. Ms Abdelkadar provided the Panel with figures which evidenced the severity of crime in the area. She said the Applicant would need to offer conditions to ensure that crime in the area was not impacted. She referenced a list of conditions that had been prepared by Sussex Police but which the Panel had not had sight of. The hearing adjourned at 10.34am to allow Members the opportunity to read and digest the proposed police conditions. The hearing resumed at 10.40am.

3.4      **Licensing Authority**

The Licensing Officer explained that a representation had been made on behalf of the Licensing Authority because they had concerns that the application could have a negative impact on the licensing objectives of prevention of crime and disorder and public nuisance and to uphold our Statement of Licensing Policy (SoLP).

The Licensing Officer went on to explain that the premises fell within the Licensing Authority's Cumulative Impact Zone (CIZ), which was adopted to give greater power to control the number of licensed premises within the city's centre. The Policy was introduced because the Licensing Authority determined that the concentration of licensed premises and the subsequent numbers of people drawn into the city centre was causing exceptional problems of crime and disorder and public nuisance.

Guidance issued under S182 of the Licensing Act 2003 (April 2018) stated in paragraph 8.41 that in completing an operating schedule, applicants were expected to have regard to the statement of licensing policy for their area. The guidance went on to say in paragraph 8.43 that applicants were expected to include positive proposals in their application on how they would manage any potential risks. Where specific policies applied in the area (for example, Cumulative Impact Zone (CIZ)), applicants were also

expected to demonstrate an understanding of how the policy impacted on their application, any measures they would take to mitigate the impact, and why they considered the application should be an exception to the policy.

The policy states that each application is still considered on its individual merit and there was discretion to depart from the policy where justified. However, departure from the Matrix Model was only expected in exceptional circumstances.

The Licensing Officer had looked carefully at this application, paying particular attention to the Matrix and any exceptional circumstances provided for departing from the Matrix. The applicant had pre-consulted prior to submitting their application and had provided a very comprehensive document around how the business would operate.

The Licensing Authority would always consider the circumstances of each case and whether there were exceptional circumstances to justify departing from the Statement of Licensing Policy and the individual circumstances of each case.

The Licensing Officer acknowledged that conditions provided by Police Licensing had been accepted by the applicant.

The Licensing Team acted as guardians of the Statements of Licensing Policy and the Licensing Officer had made this representation as she believed the application was contrary to the policy. She therefore invited the Panel to decide the outcome of this application on behalf of the Licensing Authority.

In response to a question from the Panel, the Licensing Officer confirmed that the premises was located in a quiet area.

### 3.5 Applicant

The application was for a retail unit for the sale of Brighton Bier branded merchandise including beer in gift sets and packs and an information hub for the brewery generally. Since the application was submitted the applicant had liaised with the police and agreed to a set of conditions to be applied to the licence. These included that the only sale of alcohol permitted under the licence was by way of Brighton Bier branded products which had been confirmed was limited to premium quality and price craft beer. A minimum of 2 cans would be sold and there would be no deliveries from the site. On sales would be limited to prebooked tasting events.

The Applicant had picked up on the point about pre-consultation. They had applied for another licence for their brewery earlier this year. They were not aware they had to pre-consult with police having not done it previously.

The Applicant stated this was not this was not a hospitality venue. They knew how to sell alcohol and understood the licensing conditions. They intended to staff the shop with members of their hospitality team. They had no interest in being part of the night-time economy.

In response to a question from the Panel, the Applicant said they intended to run tasting events which would be pre-booked and for up to a max of 12 people. These were

unlikely to be more than once a month and would last around 90 minutes. They would include wine in the tastings but did not intend to sell the wine. The tastings would be geared towards beer and run by the head brewer.

The Applicant was asked by the Panel if they would accept a condition that tasting events would accommodate a maximum of 12 people. The Applicant agreed to this request.

### **3.6 Closing Submissions**

Each of the parties were given the opportunity to make their closing submissions and each reiterated the points they had made during the meeting. The Panel then retired to make their decision which is set out below.

### **3.7 Decision**

That the Premises Licence in respect of Free Haus Limited, 73-75 Kings Road Arches, Brighton, BN1 2FN, be granted.

### **3.8 Reasons**

The Panel has read all the papers including the report and relevant representations, further submission by the applicants, and potential conditions, and has listened to all the submissions made today.

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. Our policy states that applications for new premises licences will be refused following relevant representations unless the applicant has demonstrated that their application will have no negative cumulative impact. The special policy will only be overridden in exceptional circumstances.

However, the policy is not absolute. Upon receipt of a relevant representation, the licensing authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy in the light of the individual circumstances of the case. If an application is unlikely to add to the cumulative impact of an area, it may be granted. The impact can be expected to be different for premises with different styles and characteristics.

The application is for a retail unit for the sale of Brighton Bier branded merchandise including beer in gift sets and packs and an information hub for the brewery generally. Since the application was submitted the applicant has liaised with the police and agreed to a set of conditions to be applied to the licence. These include that the only sale of alcohol permitted under the licence is by way of Brighton Bier branded products which has been confirmed is limited to premium quality and price craft beer. A minimum of 2 cans will be sold and there will be no deliveries from the site. On sales will be limited to prebooked tasting events.

Three representations were received. They were received from Sussex Police, The Licensing Authority and Seafront Estates Team at Brighton & Hove City Council who

supported the application. The representations from the police and licensing authority had concerns about the location of these premises within the CIZ and close to the beach, however they did acknowledge the style of operation proposed and conditions and considered it was appropriate for the panel to scrutinise the application.

The panel is mindful of the location of the premises in the CIZ and the need to ensure that the application will not add to problems in the area. The panel was able to question the applicants fully about the application and nature of operation and canvass further conditions. The operation would be a largely daytime one with a maximum closing time of 8pm in the summer. The applicants were keen to stress that this would be a mixed retail outlet with many kinds of non-alcoholic merchandise on sale. The beer sold would be kept in fridges and take up a small percentage of the overall floor space.

The panel recognises that there has been effective consultation with the police post application and that there is a comprehensive operating schedule. This is a style of operation which does not fit neatly within the Matrix for decision making. The panel agrees that as a mixed retail unit with the limited alcohol proposed for sale, the premises is not comparable to an off-licence in the usual sense and is therefore capable of being an exception to the policy. The panel was impressed by the responsible attitude of the applicants towards promoting the licensing objectives and was pleased for instance that they planned to liaise with beach cleaning groups to prevent litter in the area.

The panel is therefore granting this application with all the agreed conditions to go onto the licence, including those appropriate ones from the operating schedule but with the following amendments and additional conditions as follows. Condition 7 of those agreed with the police to be amended to:

*The consumption of alcohol on the premises is restricted to forming part of a prebooked tasting event. All attendees will have pre booked their session and be in possession of a ticket or be named on a guest list. These tasting events will have a maximum of 12 attendees at each event and there will be no more than 18 such events per year and no more than 2 events per month.*

2 further conditions shall be added as follows:

- a) *No more than 20% of the overall floor space is to be given over to the display of alcohol for sale.*
- b) *There shall be no beer for sale with an ABV of over 6%.*

The panel considers that the nature of the operation with all the robust conditions attached is not likely to add to cumulative impact and will promote the licensing objectives.

**Note:** The Legal Adviser to the Committee confirmed that the decision letter to the applicants would include details of the appeal rights available to them.

The meeting concluded at 11.23am

Signed

Chair

Dated this

day of