

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

10.00am 16 JULY 2018

HOVE TOWN HALL, ROOM G79 - HOVE TOWN HALL

MINUTES

Present: Councillors: Marsh (Chair), Gilbey and Horan

Officers: Mark Savage-Brookes, Licensing Officer, Liz Woodley, Senior Solicitor and Penny Jennings, Democratic Services Officer

PART ONE

8 TO APPOINT A CHAIR FOR THE MEETING

8.1 Councillor Marsh was appointed Chair for the meeting.

9 PROCEDURAL BUSINESS

9a Declaration of Substitutes

9.1 There were none.

9b Declarations of Interest

9.2 There were none.

9c Exclusion of the Press and Public

9.3 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).

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

10 STEPHEN RICHARD STRAFFORD CAR HIRE SHOWROOM LICENSING PANEL (LICENSING ACT 2003 ACT)

- 10.1 The Panel considered a report of the Executive Director, Neighbourhoods, Communities and Housing requesting that they consider a notification of 2 x Temporary Event Notices in view of the formal objections to them received by relevant persons under section 104(2) of the Licensing Act 2003, namely from the Police and on behalf of the Licensing Authority. Their objections had been made on the grounds of **the Prevention of Crime and Disorder, the Prevention of Public Nuisance and Public Safety**. The application related to the premises known as Strafford Car Hire, 74 Preston Road, Brighton BN1 4OQ
- 10.2 The Licensing Officer, Mark Savage-Brookes explained that the Panel needed to consider whether it is necessary for the promotion of the licensing objectives of **the Prevention of Crime and Disorder, the Prevention of Public Nuisance and Public Safety** to issue a counter notice to prevent the events from taking place.
- 10.3 Permission was sought in the terms set out below:

Sale by Retail of Alcohol	<p>1) Car showroom and area immediately outside the showroom: 10:00 to 02:00 4th August 10:00 to midnight 5th August</p> <p>2) The area beneath and to the front of the fourth railway arch: 11:00 to 02:00 4th August 10:00 to midnight 5th August</p>
Regulated entertainment	<p>1) Car showroom and area immediately outside the showroom: 10:00 to 02:00 4th August 10:00 to midnight 5th August</p> <p>2) The area beneath and to the front of the fourth railway arch: 11:00 to 02:00 4th August 10:00 to midnight 5th August</p>
Late Night Refreshment	N/A

- 10.4 The Licensing Officer went on to explain that the system of permitted temporary activities was intended as a light touch process, and as such, the carrying on of licensable activities did not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or “TEN”). The Police or Environmental Health Authority (EHA) (“relevant persons” for the purposes of TENs) could intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user (see paragraph 7.36). If a relevant person sends an objection, this may result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises

certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded (see paragraphs 7.15-7.22 of the Guidance). A TEN did not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required. If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection unless all parties agree that this is unnecessary. The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a "notice (statement of conditions)") and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

Objections Received From the Police

- 10.5 Inspector Di Lewis who was in attendance on behalf of the Police stated the Police had grave concerns in respect of the application which would coincide with Pride, the busiest weekend in the city' year when all services were stretched to capacity, if agreed 499 additional people could converge on the busiest part of the approach to the main venue. The application had been made recently, when detailed discussions regarding arrangements for the weekend had been taking place for some months; additionally, the applicant had no experienced of running any alcohol based event from their premises.
- 10.6 It should be noted that when Sussex Police had been contacted and pre-consulted by Steven Wright the applicant's licensing consultant it had been made very clear that the Police would not support the proposed event(s) due to a number of concerns. Pride was the single biggest event in the city with in excess of 300,000 people partaking during 2017 with that number expected to increase in 2018 especially on the back of the addition of the new Sunday event "Love BN1 Fest" in Preston Park. The premises was situated along the final leg of the parade route close to the entrance to and on the main artery road linking Preston Park to the city centre and Brighton Railway station. There would be a very high footfall, approximately 55,000 on Saturday and 20,000 on Sunday. In consequence detailed ingress/egress had been put into place to ensure that Presto Road and London Road were kept flowing to allow emergency services access, safe passage for pedestrians and to allow normal traffic to pass through safely when the roads were open again to the general public. Notwithstanding that it was planned that the event would be ticketed, an event of the size proposed (up to 998 people) and in this location, could very easily disrupt those plans. The area outside could become a pinch point with people arriving and departing, congregating outside to listen to music coming from inside the event and persons without tickets trying to gain access. Public safety could be out at risk with any form of obstruction or large congregation of people. Both within the event or for emergency services trying to pass by to attend a different location. That number of people would also require the oversight of the police throughout the weekend which would also place an increased burden on resources which were already stretched. The safety of everyone attending Pride and the city's

residents going about their daily business was top priority for the police. In consequence planning for Pride 2018 had begun in September 2017 since which time meetings had been held on a regular basis in order to work out and confirm the logistics for all official events being run throughout the city. Over the last five years, Sussex Police had advised premises who did not have an existing premises licence but who wanted to apply for a TEN to sell alcohol/provide entertainment during pride that they had been refused. Regardless of whether or not the event would be ticketed with such a large crowd there would be the potential for any event which might occur to escalate as the numbers were such that it would be difficult to manage and control the event and therefore gave rise to concerns for public safety.

- 10.7 The venue was a car showroom and forecourt with no previous experience of running such a large event so there were also concerns around the lack of experience in adhering to their licensing objectives on such a busy day. Normally this area had hire vehicles on site and it was unclear whether they would be removed for this event or whether there were any hazardous/inflammable substances on site which could cause potential dangers and which would need to be removed.
- 10.8 The Police Licensing and Environmental Protection Teams spent many hours each year carrying out pre-pride visits to all commercial premises along the parade route and they spoke to all managers and had built up a rapport with them over the years. It should be stressed that whilst the Police were objecting to this application for all of the reasons outlined they were not averse in principle to an event taking place at the premises. If the applicants were to request a TEN for a more modest event on another weekend the Police would be less likely to oppose it. That would also have the benefit of providing a record of use should further TEN's be sought in future.

Objections Received From Environmental Health

- 10.9 The Environmental Protection Officer, Mylene Hayward referred to her letter submitted on behalf of the Environmental Protection Team detailing and emphasising their reasons for inviting the Panel to refuse this application. Two TEN's had been requested for the Strafford Car Hire Showroom and land beneath and to the front of the 4th railway arch at 74 Preston Road, Brighton over the Pride weekend. The representation requesting that a counter-notice be issued was made on two grounds, that of "prevention of public nuisance" and "public safety".
- 10.10 The application mentioned the playing of live and recorded music outside during the Pride festival throughout the day and into the early hours of the following day. There was concern that with the congregation of potentially up to 499 people and their noise and the volume of music this could have an impact on residents living in close proximity, and it was proposed that the event would go on past the hours of the Pride event in the park. As this would be happening during the Pride Festival Weekend therefore encouraging passing members of the public to congregate and participate in this outdoor event and have the potential to create the potential for any incident to escalate and be difficult to manage or control. This premises and its entrance were on the main parade route near to Preston Park and although the road was closed for the parade, it was opened up once this had passed through and was a major route for vehicles leaving the city. All commercial premises along the parade route were spoken for each year and were requested not to have any music outside the front purely to prevent the

build-up of large groups of people drinking and dancing which could result in blocking the road which would also result in an increased safety risk for the public.

Submission on Behalf of the Applicants

- 10.11 Mr Wright spoke on behalf of the applicants stating that they considered that the proposed event would not give rise to potential additional problems of the type indicated, given that a very robust management plan would be in place for the day. He had 30 years plus of experience and did not consider that what was envisaged differed significantly from major events in the country. The two events would be run separately and access arrangements would be separate, although in answer to questions it was confirmed that individuals could buy tickets to both. Detailed plans had been provided (which the applicants were not obliged to do). Careful thought had been given to the access/egress arrangements in place in respect of the site and to arrangements to evacuate the area rapidly in the event of an emergency. The 2m high screened fencing could also be removed rapidly if necessary. Clear signage would be provided and any individuals without a ticket would be moved on. Heavily controlled queuing arrangements would be in place. The Police and others could not evidence that there would be any trouble and it was important to remember that licensing arrangements, particularly in respect of TEN's were intended to use a light touch approach and that there was generally a presumption that permission would be granted. Strafford as to take on board the points made, reference was also made to a new premises "Bungeroosh" which was due to open nearby shortly. It was explained that premises which were yet to open could not be considered and that it was not possible to amend a TEN, the Panel's powers were limited to considering the application as submitted.
- 10.12 Fraser Strafford was in attendance in the stead of his father, the applicant and explained that he experience operating as a DPS for various premises. He also confirmed that all vehicles etc., would be the duration at their other premises in Burgess Hill. Music would be contained to within the site itself and the screen to be provided outside would also serve to deaden any noise.
- 10.13 Councillor Marsh, the Chair stated that she had attended a number of Pride events as had her fellow Councillors stating that she had concerns that the proposed screening could of itself represent a hazard both in terms of impeding sight lines and if it needed to be moved or was moved by individuals seeking to gain access to the site. The premises was located at a point close to the final destination of the Parade, Preston Park and she was also concerned that as this was a pinch point that additional numbers of people at that point could result in additional potential for disturbance or hazard. Clarification and confirmation regarding measures which it was intended to put into place to mitigate any potential risk was sought.
- 10.14 Details of the security staff who would be engaged was sought and details of arrangements which would be put into place.
- 10.15 Councillor Horan sought details of the alcohol which would be available and. It was explained that although a VIP event several different categories of ticket would be available. Pre-loading would be prevented as no one would be admitted if they showed evidence of intoxication. Search arrangements would also be in place to ensure that alcohol/drugs were not brought in. In answer to further questions by Councillors Gilbey

and Horan It was explained that it was intended that tickets would be purchased in advance, admittance would be by ticket only some could be released for sale on the day.

- 10.16 Details of medical cover /first aid arrangements to be put into place were also sought. Plastic containers only would be used and food would also be available.
- 10.17 The Chair, Councillor Marsh enquired why given the level of concern expressed by both Environmental Health and the Police, the applicants had proceeded with their submission. It was explained that they considered that their application would not be detrimental and that they considered that their proposals would enhance the Pride event itself.

Summing up

- 10.19 The Licensing Officer, Mark Savage-Brookes, summed up by re-iterating that the Panel needed to determine whether the proposed event(s) would undermine the 4 Licensing Objectives. If they were of the view that they would then they needed to direct the licensing authority to issue a counter notice which would prevent it from taking place.
- 10.20 The Police re-iterated their earlier concerns and invited the Panel to issue a counter notice.
- 10.21 The Licensing Officer explained that they remained of the view that the event would compromise the licensing objectives for the reasons set out in their letter also inviting the Panel to issue a counter notice.
- 10.22 Mr Wright spoke on behalf of the applicants stating that notwithstanding the objections that had been made he was of the view that a compelling case had been made to show that the applicants would run their venue well and that their offer would be complimentary to the main Pride Event(s) and would not compromise any of the licensing objectives.

The Panel's Decision

- 10.23 Having heard all of the submissions out forward and having read the papers in depth the Panel then made their deliberations and made their decision in respect of the application. The Chair, Councillor Marsh stated that having heard the objections and submissions from Sussex Police and the Environmental protection Officer and the submissions on behalf of the Premises User the Panel had determined under the (Licensing Act 2003 Functions) that it was appropriate to issue the Premises User with a counter notice. The effect of the counter notice was to prevent the event from going ahead.
- 10.24 The Panel had considered that the issue of a counter notice would be appropriate for the promotion of the following licensing objectives – the prevention of public nuisance, the prevention of crime and disorder and public safety.
- 10.25 The Panel had noted that their powers were limited to determining the application as submitted. They had no power to vary the timing or duration of the event. They had

regard to Chapter 7 of section 182 of the Licensing Act guidance and to the Council's own Statement of Licensing Policy (SoLP), which had been drawn to their attention by the Premises User's representative. The Members themselves had extensive personal experience of Pride and knowledge of the emergency services' planning and resources for the event to their consideration of the application. Based on their experience, they shared the Police' and Environmental Protection Officer's concerns about the timing and location of the event.

- 10.26 The VIP Cocktails in the Car Sales Area were due to take place on 4 August 2018, ending at 2.00am on 5 August and between 10pm and midnight on 5 August. These dates coincided with Pride, the city's biggest weekend event. The proposed hours were longer than for the Pride event in Preston Park on Saturday 4 August, which was scheduled to finish at 10.30pm and the Pride event on 5 August which was scheduled to finish at 9.30pm. The TEN allowed for music to be played until 2.00am. Members identified the area as residential and considered that late night/early morning music created an unacceptable risk of noise nuisance. The premises were situated on Preston Road, the final leg of the Pride parade route, close to the entrance to Preston Park. That road was the main artery road linking Preston Park to Brighton Railway Station and the city centre. The Panel were in agreement that at times during the event the road would be thronged.
- 10.27 The Panel appreciated the Premises user had submitted a Temporary Event Management Plan for Pride, which addressed a number of issues, including measures for the protection of children from harm (all customers must be 18 years or over). However, the Panel still had concerns about controlling access to the site and removing the proposed fencing in an emergency. They were also concerned that the Premises User had no experience of using the site for an event including the sale of alcohol, let alone one for 499 patrons.
- 10.28 In all the circumstances, the Panel agreed that permitting the premises/area to be used in accordance with the TEN would be likely to lead to crime and disorder, a risk to public safety and public nuisance. The issue of a counter notice would therefore ensure that the licensing objectives were not undermined.
- 10.29 **RESOLVED** – That for the reasons set out above a Counter Notice be issued in respect of the two Temporary Event Notices applied for by Strafford Car Hire, 74 Preston Road, Brighton BN1 40Q for the time period: 10am on 4 August 2018 to 2am on 5 August 2018 and; 10am to midnight on 5 August 2018. The effect of the counter notice was to prevent the event from going ahead.

Note: The Legal Adviser to the Panel explained that as a counter notice had been given the Premises User could appeal that decision. The appeal must be made to the Magistrates Court within 21 days of notification of the decision and could not be brought later than 5 working days before the day on which the event period specified in the temporary event notice began.

The meeting concluded at 12.20pm

Signed

Chair

Dated this

day of