

BRIGHTON & HOVE CITY COUNCIL

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

10.00am 11 FEBRUARY 2019

ROOM G90, HOVE TOWN HALL - ROOM G90, HOVE TOWN HALL

MINUTES

Present: Councillors: Knight, Marsh and O'Quinn,

Officers: Donna Lynsdale – Licensing Authority, Mark Thorogood – Police Licensing Officer, Mark Savage-Brookes – Licensing Officer

PART ONE

77 PHOENIX ARTS ASSOCIATION LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

77.1 The Chair introduced the Panel

77.2 The Panel considered a report of the Director of Neighbourhoods, Communities and Housing to determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for Phoenix Arts Association.

Introduction from Licensing Officer

77.3 The Licensing Officer Mark Savage Brooks stated the following:
“Today you will hear an application for a new Premises Licence for Phoenix Arts Association, located at 10-14 Waterloo Place, Brighton. The premises provides affordable studio space to artists as well as hosting exhibitions and events. The applicant state in the application that they are installing a café and increasing the number of events, within the public space located on the ground floor of the building. A full description of the applicant, the premises and the operation can be found within the report papers on page 5 in paragraph 3.1.

The applicant provided further clarification last week about the premises operation and amended some of the times originally applied for, confirming that the two types of operation proposed under the licence within the premises are a café and events. An Addendum paper was circulated last week and this information can be seen on page 7 and 8 of this.

The application originally proposed the licensable activities as seen in the Summary Table in section 3.3 on page 6 of today's report papers; however some of these were amended by the applicant last week to those seen in the Addendum paper on page 7.

I confirm that the applicant is therefore applying for the regulated entertainment activities of Plays, Exhibition of Film, Live Music, Recorded Music and Performance of Dance from 9am to midnight every day; and also for the sale of alcohol from midday to 11pm every day, with opening hours of 8am to midnight every day.

The applicant state in their addendum information that these times cover the period in which events may take place and have provided an extra set of times for the café area – these are 8am to 5pm Thursday to Tuesday and 8am to 9pm on Wednesdays. It is noted that these times are caveated with the comments ‘subject to change’ and that ‘the cafe will also be open for selected events where appropriate’.

The licensing team received two representations in regard to this application – one from the Licensing Authority and one from Sussex Police. The representations contain relevant concerns relating to all four of the licensing objectives – the prevention of crime of disorder, public safety, the prevention of public nuisance and protection of children from harm. Sussex Police attached a list of proposed conditions to their representation and the applicant has referred to this in their Addendum information, agreeing to some of these conditions and indicating that they wish to discuss others further today.

An agreement of conditions relating to preventing public nuisance was reached with the Environmental protection team as seen on page 42.

The Representations, proposed conditions and agreed conditions can all be found in Appendix C from page 33 to 42.

The applicant also offered control measures and conditions within their Operating Schedule, which can be seen in Appendix A on pages 23 to 30.

The premises sit within a special stress area which, as stated in our Statement of Licensing Policy at 3.2 ([starting p8 of today's papers and p15 of SoLP](#)), is deemed an area of special concern in terms of the levels of crime and disorder and nuisance experienced. The policy states that new applications for premises within the SSA will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas. The SoLP also provides a list of potential measures that could be adopted, depending on the style of operation applied for.

The adoption of the Matrix approach to licensing decisions found in the statement of licensing policy ([p17](#)) and this agenda ([from p10](#)) includes a table with provisions for a terminal hour for all classes of license premises in a particular area, recognising the diverse operations and different risks presented by those premises.

It is important to note that each application will be given individual consideration on its own merits.”

Questions to the Licensing Officer

- 77.4 The Chair asked whether the premises was without a licence currently and the Licensing Officer replied that it did not have a current licence, but they had utilised Temporary Event Notices (TENs).
- 77.5 Councillor Marsh asked regarding page 7 of the Addendum whether the venue was showing theatre plays or films and the Licensing Officer clarified this point that there was no change to the existing criteria in those categories listed.

Representations from Responsible Authorities

Police Licensing Officer

- 77.6 The Police Licensing Officer Mark Thorogood addressed the panel and stated the following:

“This is an application for a new premises licence for Phoenix Arts Association situated along Waterloo Place, an area which falls within the Special Stress Area as set out in the Brighton & Hove City Council Statement of Licensing Policy.

The applicant was originally seeking a licence to permit the sale of alcohol via on-sales between the hours of 12:00 and Midnight, 7 days a week however, on Thursday we have been notified of a change to this along with other alterations to the application as mentioned by Mark Savage-Brooks in his presentation. We understand the alcohol termination hour is now 23:00hrs.

The style of operation could be described as a ‘non-alcohol led’ as the applicant states *‘Phoenix Arts Association is a charity existing to provide affordable studio spaces to artists in Brighton and Hove’*. However, the licensable activities being applied for would permit the venue to operate in a number of different ways including the ability to have alcohol led events such as private hire parties and music events. In a 500 capacity venue, this is of concern to Sussex Police.

Though the applicant has submitted a comprehensive list of measures to assist in promoting the licensing objectives, Sussex Police do not believe they go far enough to ensure the premises will operate as a non-alcohol led venue and mitigate the risk of having a negative impact on the surrounding area and policing.

Within your agenda pack from page 39, you will find a number of conditions we put to the applicant some of which have been agreed on however, ones that Sussex Police believe ensure the premises will be one that is non-alcohol led have not.

This includes:

- When in operation, the café area is run as such by having café conditions.
- Limiting the type of music events that can be held by ensuring these are seated with no vertical drinking.
- Restricting the type of events that can be held to ensure this is a non-alcohol led venue. Such as prohibiting Birthdays/Christmas parties etc.
- To assist in crime reduction and public safety, ensure SIA security are on duty during peak times of Friday & Saturday nights.

One of our main concerns is the capacity and with the conditions currently not been agreed to, the venue could be used for DJ / party nights which could then in turn require the assistance of blue light services.

In terms of the location, the premises is by The Level, an area which has a number of anti-social behaviour issues which is often fuelled by alcohol. Reviewing the Public Health Framework report for Assessing Alcohol Licensing 2019 5th edition, Hanover and Elm Grove ward, of which this location is within, is 11th out of 21 wards for police recorded alcohol related incidents. The Level is also included within the Operation Marble area, Sussex Police response to night time economy policing. Intoxicated persons can easily become a victim of crime. By granting an alcohol licence to a premises within an area of concern without strict conditions is a concern for Sussex Police and the impact it could have on the surrounding area. It is for this reason Sussex Police feel strongly that this application should be heard and considered before a licensing panel. “

Questions to the Police Licensing Officer

- 77.7 The Chair stated she was worried about the possibility of alcohol-led events and the capacity of the venue and she asked whether the Police Licensing Officer had spoken to the applicants about the potential noise problem for local residents. The Police Licensing Officer replied that after several weeks of consulting with the applicants who had been very open in their communication, they had now submitted a draft proposal which still had unresolved conditions within it. He confirmed that any noise issues tended to be taken up by the Environmental Health officers and that the main impact would be felt on The Level, which was nearby and its problems had been well publicised. The Chair commented that the drug dealing in this area was worrying and the Police Licensing Officer replied that it was important to ensure that the licence safeguarded the future of the area.
- 77.8 Councillor Marsh queried the events mentioned in p. 10 Condition 3 of the Addendum and the Police Licensing Officer replied that since this was a late addition, he had not had time to discuss this with the applicant and stated that Conditions: 3,4,6,7 and 10 were conditions he wanted to check in order to ensure that this was not an alcohol-led venue. Councillor Marsh replied that she agreed that these should be agreed by the applicant to give more assurance to the panel on this issue.

Representation from the Licensing Authority Officer

- 77.9 The Licensing Authority Officer Becky Pratley addressed the Panel and stated the following:

“My representation is on behalf of the Licensing Authority and can be found on pages 33-35 of today’s agenda.

As a Licensing Officer, part of my role is as a guardian of our Statement of Licensing Policy and to uphold this policy, which provides a vision of what the Licensing Authority would like to see within its area. The application before you today for Phoenix Arts Association based in Waterloo Place, is in our Special Stress Area.

My representation was made on the grounds of the Prevention of Crime and Disorder, the Prevention of Public Nuisance and to uphold our Statement of Licensing policy so that the panel can determine the application.

The original application was contrary to our Statement of Licensing Policy (SoLP). Following the amendments now made to the application, that appear in the addendum, the application is within policy in the category of a pub. With a potential maximum capacity of 500, selling alcohol every day until 11pm with regulated entertainment such as live and recorded music, films, plays and dance until midnight daily.

Gabby did contact me following receipt of my representation and we had a lengthy discussion about the application and the matrix and my concerns regarding the lack of clarity on the application and the plans. Pubs Vs cafes discussed. The large capacity 500. I appreciate predicted hours for the opening of the café have been submitted but these are not enforceable as this addendum stipulates on p7 these may be subject to change. We are therefore essentially back to the description I have given above as a 50 or 500 capacity pub within the Special Stress Area depending on the events scheduled for that day.

The premises falls in Hanover and Elm Grove ward of the City, which according to our Public Health Framework for Assessing Alcohol Licensing (4th edition) is ranked the 4th worst ward out of 21 wards under the Health data for 'Increasing risk or higher risk drinking'.

I do not believe that the amended application or the conditions agreed in the addendum offer a clear vision of how this premises would operate on a day to day basis. I therefore request the panel examine this application to determine whether it should be granted or refused."

Questions to the Licensing Authority Officer

- 77.10 The Chair asked whether the conditions within the appendix implied that there would be a bar at the venue, – rather than waitress service, since the Cafe already employed barista for coffee. The Licensing Authority Officer confirmed that this could be tailored to suit the venue. The Chair then queried the large 500 people capacity of the venue and whether the police had requested that there should be waiter service and the Licensing Authority Officer answered that although she had not visited the venue, the service would be expected to be the same as a pub. The Chair then queried whether the hours requested should be kept for the café and the Police Licensing Officer replied that the hours stated were too loose at present and needed to be amended and the Chair stated that since there was no representative from Environmental Health at the panel, she would put her queries on the issues of noise and unloading directly to the Applicant instead.

Applicant

Representation from the Applicant: Sarah Davies, Gaby Gilmore and Richard Carter – all representing Phoenix Arts

- 77.11 The Applicant Sarah Davies confirmed that Phoenix Arts was a regulated Charity and existed to offer affordable studio space to freelance workers and to promote art to a wider audience with a rolling educational and exhibition programme. She confirmed that they had bought the building 25 years ago and that there were 120 artists who used the building and all had separate agreements with the charity. She also confirmed that they were active in the community and that Councillors Gibson and Daniel had worked with them to create a residents community association. She confirmed that they were in the second year of a business plan and since they own the building but have not regular source of funding, they need to generate income to maintain the huge building costs
- 77.12 Gaby Gilmore stated that she had been employed to manage the venue and realised one year ago that it could not progress without a licence. She confirmed that the venue had to try to communicate as much as possible with the council and police in order to consider the welfare of the public. She then confirmed that she wanted to discuss the following points with the panel: 1. Waiter service, which Richard Carter would discuss and 2. the Condition 6 – vertical drinking at music events, which they wanted to discuss within the café area, which they wanted to discuss.
- 77.13 Richard Carter stated that the Café area was small with 18- 20 seats in area and 4 are on high stools and that they planned to add seating along corridor. He added that if they had to operate a waiter service it would only have a small operating area and they wanted the public to be able to walk into the gallery area with the possibility of holding their drink, so that they were looking for a compromise on this.
- 77.14 Gaby Gilmore stated that they would struggle to find staff regarding Condition no. 4 – since the DPS could nominate people, but all staff were stipulated to have a DPS. Richard Carter confirmed that he and Sarah Davie had a DPS, but that staff for events were transient and would make this condition difficult.
- 77.15 Gaby Gilmore also queried Condition 10 regarding security guards as they would like to request changing the need for security after 9 pm only. She then explained that their largest events were private views which took place every six weeks and ran from 6 – 8 pm in the corridor and main gallery and therefore they would only require security for the last hour, but would have to pay for a minimum 4 hours for a security guard and gave an example of recent private view for Northbrook which followed these timing. They felt a requirement for a security guard for 4 hours was therefore excessive.
- 77.16 Ms Gilmore also queried the detail in Condition 8 regarding CCTV for all public areas, since this would include workshop rooms, - part of the three exhibition areas and she was concerned that cctv would encroach on people's privacy, since these rooms were often used for life drawing classes and children's events and therefore wanted this issue to be discussed by the panel.

Discussion & Questions to the Applicants

There was a long discussion with members of the Panel and all the Applicants in order to clarify the different conditions and areas of the building to be included within the licence. The following seven points are a summary of the main points of the discussion:

- **Licensing Hours**

- 77.17 Ms Gilmore confirmed that the reason the venue wanted long licensing hours was to cover events such as art labs which were bi-monthly and went on later in the evening and that the venue wanted to continue doing more theatre or comedy nights in the future. She confirmed that since they wanted to do regular events with café events every Wednesday, they would soon exceed the number of TENS they were allowed.
- 77.17 Ms Davies confirmed that their events were artist events and not music events and therefore they would not require live music after 11pm, since it would be only music as part of an exhibition. The Police Licensing Officer & Licensing Officer also confirmed that the Applicant did not require a licence for live or recorded music in a venue for up to 500 people, since it was de-regulated up to 10 pm. Councillor Marsh pointed out that therefore the public would have to finish consuming alcohol at 10pm even if the event finished at 11pm and Sarah Davies agreed that it was fair to limit alcohol to finishing at 10 pm. The Chair stated that the 10pm finishing time for alcohol within the main licence would be fairest for the local community.
- 77.18 Ms Davies queried what type of licence was required for an internal Christmas party and the Police Licensing Officer said a TEN notice would suffice for this.

- **Areas within the Venue to be licenced**

- 77.19 Councillor Knight asked where in the venue the Arts Lab events would take place. Ms Gilmore replied that there would be different areas including the café / gallery area and the music would have a seated audience.
- 77.20 The Chair stated that this was complex and the Applicant appeared to want to licence a very large area, with 5 floors and suggested that the areas that they should cut down the area they want to serve alcohol so that CCTV would not be required in those rooms and that it was policy to request venues to have waitress service, otherwise it would be licensed and categorised as a pub venue.
- 77.21 Councillor Marsh raised the issue of using the fifteen TENS licenses allowed per year to vary the licence when required. The Applicant, Becky replied that they had experienced no previous problems with applying for TENS, but had to be selective of when they were used and they wanted to have events on a weekly basis from now on and that those requiring the sale of alcohol included: private views, artlabs, weekly artist led events. Councillor Marsh clarified the fact that they needed the licence changed to match a new business model now and the Applicant confirmed that this was true since they wanted to grow their business. The Chair confirmed that a full licence had to be enforceable with set space limits and limit the rooms they were requesting a licence for.
- 77.22 The Chair raised the issue that the sale of alcohol until 11pm for some kind of event would create noise disturbance in area due to post event deliveries and collections loading outside and stated that she did not think this condition was controlled enough

- **Type of events that the Venue will offer**

77.23 The Applicant represented by Sarah Davies and Ms Gilmore confirmed that events that the Venue would offer included: Art Labs which were bi-monthly and events / talks such as recent one with Henry Normal. The Chair asked whether there were music events planned and Ms Davies said there was sometimes music as part of an exhibition such as the Ed Briggs programme which started with 25 minutes of music then continued as a talk / exhibition event.

77.24 Councillor Marsh asked if it was possible to stop alcohol being sold at 10pm and after some discussion Ms Davies said that was probably a fair condition.

- **Security**

77.25 Councillor Knight queried the need for security from 9 pm and the Chair asked the Licensing Officer whether if the sale of alcohol stopped at 10 pm, then there would be a lower capacity of people and thus change the SIA – S Impact Area? The Licensing Officer confirmed that if the hours were reduced to 10pm then the conditions no.10 and no. 7 regarding the requirement for door persons on risk assessments could be dropped

- **Waitress service or Bar service for alcohol**

77.26 The Chair confirmed that in point no. 3 there should be waitress service within the café area and the Police Licensing Officer confirmed that he was confused about the service in the café. Ms Davies replied that the corridor was included as part of the café area and Ms Gilmore stated that since the café in the SSA was permitted to stay open until 11pm, they did not think there was a problem with this.

77.27 The Chair stated that the panel wanted to condition this license as an arts venue – not a pub and therefore asked about the North Road Mobile bar and at what times they were proposing to have this in operation? Ms Gilmore replied that they wanted to position this nearer the gallery. Councillor Knight suggested that the mobile bar could run from 5 – 10pm and Ms Gilmore replied that they were keen to ensure that it was run on normal café hours and wanted to avoid vertical drinking in this area. Councillor Marsh stated that if the café was open serving food then events should not take place in the café and a mobile bar could be used in space to serve drinks. The applicants handed out leaflets with picture of the venue to assist members of the panel and confirmed that the café seated 18 – 22 people and corridor seated 15 people. There was a long discussion about the areas in the café, the need to stipulate eating with drinking alcohol and various issues around the problem of licensing this area.

77.28 The applicant asked the panel for clarification that waitress service was defined as: a customer ordered alcohol, coffee or food at the bar and that any of these were then served to the customer at their table by staff. The panel confirmed that this was correct and the Applicant confirmed their acceptance of this.

77.29 The Applicant raised the area of the Green Room and the Chair confirmed that the Green Room was not included in the area until after 5pm.

- **Employment of staff with DPS requirement**

- 77.30 The applicant asked whether they could as a trained DPS on the premises, delegate the responsibility to someone else within the team. The Police Licensing Officer replied that the requirement was that someone on the premises must have a DPS licence and this would be required for a capacity of 200 people .
- 77.31 The Chair stated that regarding Condition 7, a TENS notice would be a better solution and therefore confirmed that Condition 7 would apply. The Chair also stated that regarding Condition 10 the first part should be deleted and the SIA registered should be employed on any occasion with a risk assessment required for larger events.

The Chair then requested a ten minute break in the proceedings for in order to talk with the Legal advisor and confirm a reasonable plan of action.

Further Questions to Applicant

- 77.24 The Police Licensing Officer asked the Applicant to clarify which events the Applicant envisaged unaccompanied children attending. Sarah Davies stated that they ran a family fun school for children and had a new safeguarding policy which included DBS trainers and that this would take place in training rooms that would not be licensed.
- 77.25 The Police Licensing Officer then asked about the condition of purchasing tickets as outlined in Condition 2 of the Addendum . Gaby confirmed that all events would be ticketed and that the public could buy a ticket on the door, if required.
- 77.26 The Licensing Authority Officer queried where the Licence boundary was within the the building plan map and the Applicant, Gaby drew this on the map and confirmed that the boundary from the Green to White areas was a lockable area.

SUMMARIES

- 77.27 The Licensing Officer Mark Savage Brookes summarised and stated the following:

“This is an application for a new premises licence for Phoenix Arts Association 10-14 Waterloo Place, Brighton.

The application proposes Plays, Exhibition of Film, Live Music, Recorded Music and Performance of Dance from 9am to midnight every day; and the sale of alcohol from midday to 11pm every day. Other timings have been canvassed and discussed during the course of this meeting.

Conditions were agreed with Environmental Protection and proposed by Sussex Police prior to the hearing and further conditions and control measures were also offered by the applicant within their original application. Conditions have also been discussed during the course of this meeting.

Two relevant representations remain outstanding against this application and you have read these and heard from all parties present.

The premises sits within a special stress area which as stated in our Statement of Licensing Policy is deemed an area of special concern in terms of the levels of crime and disorder and nuisance experienced. The policy states that new applications for premises within the Special Stress Area will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas.

Licensing Guidance (9.38) states that: In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy

It is important to note that each application will be given individual consideration on its own merit.”

77.28 The Police Licensing Officer Mark Thorogood gave the following summary:

“The concerns from Sussex Police about this application was the capacity and the fact under the conditions being offered, it could easily hold alcohol led events. Due to the suggestions put forward and the agreement to certain conditions, the concerns we had have now been addressed. “

77.29 The Licensing Officer Becky Pratley gave the following brief summary:

“I acknowledge that the application now falls well within our SoLP, I therefore ask that the panel determine the outcome of this application.”

77.30 The Chair added that Condition 8 should be amended to read that loading should be done by 11pm, so that this did not affect residents.

Decision:

77.31 **RESOLVED** – The Panel’s decision was as follows:

“This is an application for the sale of alcohol and regulated entertainment within a café and event space on the ground floor of the premises. The premises is in the Special Stress Area (SSA) as detailed in the Statement of Licensing policy which is an area of concern to the licensing authority because of the relatively high levels of crime and disorder and nuisance experienced within it. The original application has been amended to reduce the hours for sale of alcohol to 23:00 hours and confirm agreement to some of the conditions proposed by the police. Conditions had been agreed with the Environmental Protection Team.

Representations have been made by the licensing authority and the police. Concerns centred around the location of these premises which is in the SSA and in close proximity to the Level which is a very challenging area for policing. In addition the potential capacity of the premises of 500 persons attending events was of concern to the responsible authorities in the absence of robust conditions to address this.

The panel shared the concerns of the Responsible Authorities. We were keen to clarify with the Applicants how they intended to operate the premises and promote the licensing objectives. They stressed that they were a registered charity providing affordable studio space to artists and to promote art to a wider audience. There was a rolling programme of exhibitions and the applicants wished to extend and develop their events to include theatre and comedy and some music. The operation of the café area was clarified and conditions agreed in relation to this area. Further, to address concerns around capacity and CCTV, the applicants agreed to remove the White Room, Red Room and Blue Room from the application so that no alcohol could be sold or consumed in these areas. (A revised plan to be submitted). In response to concerns the applicants agreed to amend the times for sale of alcohol to 22:00 hours and closing time to 23:00 hours every day.

Therefore, upon the canvassing of, and agreement to a number of conditions which the panel believed would promote the licensing objectives, deal with the concerns raised and emphasise the non-alcohol led character of the activities, the panel have decided to grant this application with the following licensable activities and conditions to be attached to the licence:

1. Sale of alcohol to be from 12:00 to 22:00 hours every day save for the Green Room as shown on the plan where the hours will be 17:00 to 22:00 every day.
Regulated entertainment to 23:00 hours every day.
Closing time to be 23:00 hours every day.
2. The licensed café area (which includes the corridor area as shown on the plan) shall operate to the following times and conditions:
12:00 to 17:00 hours every day. During this time the sale of alcohol within the café area shall be by waiter/waitress service for consumption by persons seated at tables.
Substantial food shall be available at all times.

Alcohol shall not be sold in the Green room during these times.

When alcohol is sold in the café area after 17:00 the café condition will not apply and the area will be subject to the general conditions on the licence as a whole.

Amended Police conditions

1. Authorised staff employed by Sussex Police shall have free access to all parts of the licensed premises at all times licensable activity is taking place or when open to members of the public, for the purpose of inspection to ensure compliance with the terms and conditions of the premises licence and to ensure the promotion of the licensing objectives.

2. Excluding the café area, alcohol will only be made available to persons attending a pre booked event and who are in possession of a valid ticket or listed on a guest list.
3. Whenever the premises is conducting the sale of alcohol for events for 200 persons or more then either the designated premises supervisor or another personal licence holder shall be present within the licensed premises.
4. A list of staff members who are authorised to sell alcohol on the premises shall be kept. This shall be endorsed by the DPS with the date such authorisation commences.
5. During the performance of live or recorded music, the sale of intoxicating liquor shall be for consumption by seated persons and there will be no vertical drinking, excluding carrying drinks purchased at the bar to seats. Exclusion to this is when background music or no music is being played and/or during an Art exhibition.
6. Celebratory events such as birthdays, weddings and seasonal events such as Christmas and New Year's Eve parties are not permitted under this licence.
7. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times. CCTV footage will be stored for a minimum of 31 days. The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.

The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.

Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.

Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.

In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

8. An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week. The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence. Any refusals made for alcohol service e.g. underage, will also be recorded (either in electronic or written form) and feedback given to staff as relevant. The log will be kept for a minimum of twenty four (24) months.
9. The premises will operate an age verification policy set at a minimum of 25 years (e.g. "Challenge 25") whereby any person attempting to buy alcohol who appears to be under the specified age e.g. 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.
10. Signage advertising the 'Challenge 25' policy will be displayed in prominent locations in the premises.
11. a) The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:
 - * The lawful selling of age restricted products
 - * Refusing the sale of alcohol to a person who is drunk
- b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 8 weeks, with the date and time of the verbal reinforcement/refresher training documented.
- c) All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.
12. SIA registered door supervisors shall be employed on any occasion when a requirement is identified by the licence holder's written risk assessment or requested by Sussex Police in writing at least 48 hours in advance. The written risk assessment will be reviewed at least once every calendar year. The written risk assessment will take into account information or guidance offered by the police, and also taking into account busy periods such as Bank Holidays, Season Variations and other City Centre Events e.g. Pride. The written risk assessment will be available on the premises for inspection by police and authorised officers of the Licensing Authority.

Conditions agreed with Environmental Protection Team:

1. Doors and windows will be kept closed while events are taking place. This will be supervised by Door staff and/or other staff as appropriate.
2. Door staff and/or other staff will make regular checks of the outside of the premises to ensure that sound levels do not impact on neighbouring properties.
3. The licensee must ensure that people on or leaving the premises including smokers, conduct themselves in an orderly manner at all times and do not in any way cause annoyance to residents and people passing by the premises. Appropriate signage to this effect to be displayed inside the premises.
4. Numbers of those smoking will be limited to 6 people at the public entrances which face the main road and managed by door staff and/or other staff.
5. No smoking is permitted at the back of the building nearest the residential area.
6. Deliveries and collections will be scheduled between 7am and 7pm.
7. Post event loading will be done carefully and quietly by 23:00 hours and supervised by Phoenix staff and managed in such a way as to minimise disruption.

There will also be attached to the licence such other conditions as appropriate from the applicants operating schedule where not superseded by the above conditions.

Overall the panel consider that the above conditions will ensure that the operation of the premises promotes the licensing objectives within this challenging area.”

The meeting concluded at 1.25pm

Signed

Chair

Dated this

day of

77 PHOENIX ARTS ASSOCIATION LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

77.1 The Chair introduced the Panel

77.2 The Panel considered a report of the Director of Neighbourhoods, Communities and Housing to determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for Phoenix Arts Association.

Introduction from Licensing Officer

77.3 The Licensing Officer Mark Savage Brooks stated the following:
“Today you will hear an application for a new Premises Licence for Phoenix Arts Association, located at 10-14 Waterloo Place, Brighton. The premises provides affordable studio space to artists as well as hosting exhibitions and events. The applicant state in the application that they are installing a café and increasing the

number of events, within the public space located on the ground floor of the building. A full description of the applicant, the premises and the operation can be found within the report papers on page 5 in paragraph 3.1.

The applicant provided further clarification last week about the premises operation and amended some of the times originally applied for, confirming that the two types of operation proposed under the licence within the premises are a café and events. An Addendum paper was circulated last week and this information can be seen on page 7 and 8 of this.

The application originally proposed the licensable activities as seen in the Summary Table in section 3.3 on page 6 of today's report papers; however some of these were amended by the applicant last week to those seen in the Addendum paper on page 7.

I confirm that the applicant is therefore applying for the regulated entertainment activities of Plays, Exhibition of Film, Live Music, Recorded Music and Performance of Dance from 9am to midnight every day; and also for the sale of alcohol from midday to 11pm every day, with opening hours of 8am to midnight every day.

The applicant state in their addendum information that these times cover the period in which events may take place and have provided an extra set of times for the café area – these are 8am to 5pm Thursday to Tuesday and 8am to 9pm on Wednesdays. It is noted that these times are caveated with the comments 'subject to change' and that 'the cafe will also be open for selected events where appropriate'.

The licensing team received two representations in regard to this application – one from the Licensing Authority and one from Sussex Police. The representations contain relevant concerns relating to all four of the licensing objectives – the prevention of crime of disorder, public safety, the prevention of public nuisance and protection of children from harm. Sussex Police attached a list of proposed conditions to their representation and the applicant has referred to this in their Addendum information, agreeing to some of these conditions and indicating that they wish to discuss others further today.

An agreement of conditions relating to preventing public nuisance was reached with the Environmental protection team as seen on page 42.

The Representations, proposed conditions and agreed conditions can all be found in Appendix C from page 33 to 42.

The applicant also offered control measures and conditions within their Operating Schedule, which can be seen in Appendix A on pages 23 to 30.

The premises sit within a special stress area which, as stated in our Statement of Licensing Policy at 3.2 ([starting p8 of today's papers and p15 of SoLP](#)), is deemed an area of special concern in terms of the levels of crime and disorder and nuisance experienced. The policy states that new applications for premises within the SSA will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these

areas. The SoLP also provides a list of potential measures that could be adopted , depending on the style of operation applied for.

The adoption of the Matrix approach to licensing decisions found in the statement of licensing policy (p17) and this agenda (from p10) includes a table with provisions for a terminal hour for all classes of license premises in a particular area, recognising the diverse operations and different risks presented by those premises.

It is important to note that each application will be given individual consideration on its own merits.”

Questions to the Licensing Officer

- 77.4 The Chair asked whether the premises was without a licence currently and the Licensing Officer replied that it did not have a current licence, but they had utilised Temporary Event Notices (TENs).
- 77.5 Councillor Marsh asked regarding page 7 of the Addendum whether the venue was showing theatre plays or films and the Licensing Officer clarified this point that there was no change to the existing criteria in those categories listed.

Representations from Responsible Authorities

Police Licensing Officer

- 77.6 The Police Licensing Officer Mark Thorogood addressed the panel and stated the following:

“This is an application for a new premises licence for Phoenix Arts Association situated along Waterloo Place, an area which falls within the Special Stress Area as set out in the Brighton & Hove City Council Statement of Licensing Policy.

The applicant was originally seeking a licence to permit the sale of alcohol via on-sales between the hours of 12:00 and Midnight, 7 days a week however, on Thursday we have been notified of a change to this along with other alterations to the application as mentioned by Mark Savage-Brooks in his presentation. We understand the alcohol termination hour is now 23:00hrs.

The style of operation could be described as a ‘non-alcohol led’ as the applicant states ‘*Phoenix Arts Association is a charity existing to provide affordable studio spaces to artists in Brighton and Hove*’. However, the licensable activities being applied for would permit the venue to operate in a number of different ways including the ability to have alcohol led events such as private hire parties and music events. In a 500 capacity venue, this is of concern to Sussex Police.

Though the applicant has submitted a comprehensive list of measures to assist in promoting the licensing objectives, Sussex Police do not believe they go far enough to ensure the premises will operate as a non-alcohol led venue and mitigate the risk of having a negative impact on the surrounding area and policing.

Within your agenda pack from page 39, you will find a number of conditions we put to the applicant some of which have been agreed on however, ones that Sussex Police believe ensure the premises will be one that is non-alcohol led have not.

This includes:

- When in operation, the café area is run as such by having café conditions.
- Limiting the type of music events that can be held by ensuring these are seated with no vertical drinking.
- Restricting the type of events that can be held to ensure this is a non-alcohol led venue. Such as prohibiting Birthdays/Christmas parties etc.
- To assist in crime reduction and public safety, ensure SIA security are on duty during peak times of Friday & Saturday nights.

One of our main concerns is the capacity and with the conditions currently not been agreed to, the venue could be used for DJ / party nights which could then in turn require the assistance of blue light services.

In terms of the location, the premises is by The Level, an area which has a number of anti-social behaviour issues which is often fuelled by alcohol. Reviewing the Public Health Framework report for Assessing Alcohol Licensing 2019 5th edition, Hanover and Elm Grove ward, of which this location is within, is 11th out of 21 wards for police recorded alcohol related incidents. The Level is also included within the Operation Marble area, Sussex Police response to night time economy policing.

Intoxicated persons can easily become a victim of crime. By granting an alcohol licence to a premises within an area of concern without strict conditions is a concern for Sussex Police and the impact it could have on the surrounding area. It is for this reason Sussex Police feel strongly that this application should be heard and considered before a licensing panel. “

Questions to the Police Licensing Officer

77.7 The Chair stated she was worried about the possibility of alcohol-led events and the capacity of the venue and she asked whether the Police Licensing Officer had spoken to the applicants about the potential noise problem for local residents. The Police Licensing Officer replied that after several weeks of consulting with the applicants who had been very open in their communication, they had now submitted a draft proposal which still had unresolved conditions within it. He confirmed that any noise issues tended to be taken up by the Environmental Health officers and that the main impact would be felt on The Level, which was nearby and its problems had been well publicised. The Chair commented that the drug dealing in this area was worrying and the Police Licensing Officer replied that it was important to ensure that the licence safeguarded the future of the area.

77.8 Councillor Marsh queried the events mentioned in p. 10 Condition 3 of the Addendum and the Police Licensing Officer replied that since this was a late addition, he had not had time to discuss this with the applicant and stated that Conditions: 3,4,6,7 and 10 were conditions he wanted to check in order to ensure that this was not an alcohol-led venue. Councillor Marsh replied that she agreed that these should be agreed by the applicant to give more assurance to the panel on this issue.

Representation from the Licensing Authority Officer

77.9 The Licensing Authority Officer Becky Pratley addressed the Panel and stated the following:

“My representation is on behalf of the Licensing Authority and can be found on pages 33-35 of today’s agenda.

As a Licensing Officer, part of my role is as a guardian of our Statement of Licensing Policy and to uphold this policy, which provides a vision of what the Licensing Authority would like to see within its area. The application before you today for Phoenix Arts Association based in Waterloo Place, is in our Special Stress Area.

My representation was made on the grounds of the Prevention of Crime and Disorder, the Prevention of Public Nuisance and to uphold our Statement of Licensing policy so that the panel can determine the application.

The original application was contrary to our Statement of Licensing Policy (SoLP). Following the amendments now made to the application, that appear in the addendum, the application is within policy in the category of a pub. With a potential maximum capacity of 500, selling alcohol every day until 11pm with regulated entertainment such as live and recorded music, films, plays and dance until midnight daily.

Gabby did contact me following receipt of my representation and we had a lengthy discussion about the application and the matrix and my concerns regarding the lack of clarity on the application and the plans. Pubs Vs cafes discussed. The large capacity 500. I appreciate predicted hours for the opening of the café have been submitted but these are not enforceable as this addendum stipulates on p7 these may be subject to change. We are therefore essentially back to the description I have given above as a 50 or 500 capacity pub within the Special Stress Area depending on the events scheduled for that day.

The premises falls in Hanover and Elm Grove ward of the City, which according to our Public Health Framework for Assessing Alcohol Licensing (4th edition) is ranked the 4th worst ward out of 21 wards under the Health data for ‘Increasing risk or higher risk drinking’.

I do not believe that the amended application or the conditions agreed in the addendum offer a clear vision of how this premises would operate on a day to day basis. I therefore request the panel examine this application to determine whether it should be granted or refused.”

Questions to the Licensing Authority Officer

77.10 The Chair asked whether the conditions within the appendix implied that there would be a bar at the venue,— rather than waitress service, since the Cafe already employed barista for coffee. The Licensing Authority Officer confirmed that this could be tailored to suit the venue. The Chair then queried the large 500 people capacity of the venue and whether the police had requested that there should be waiter service and the Licensing Authority Officer answered that although she had not visited the venue, the

service would be expected to be the same as a pub. The Chair then queried whether the hours requested should be kept for the café and the Police Licensing Officer replied that the hours stated were too loose at present and needed to be amended and the Chair stated that since there was no representative from Environmental Health at the panel, she would put her queries on the issues of noise and unloading directly to the Applicant instead.

Applicant

Representation from the Applicant: Sarah Davies, Gaby Gilmore and Richard Carter – all representing Phoenix Arts

- 77.11 The Applicant Sarah Davies confirmed that Phoenix Arts was a regulated Charity and existed to offer affordable studio space to freelance workers and to promote art to a wider audience with a rolling educational and exhibition programme. She confirmed that that they had bought the building 25 years ago and that there were 120 artists who used the building and all had separate agreements with the charity. She also confirmed that they were active in the community and that Councillors Gibson and Daniel had worked with them to create a residents community association. She confirmed that they were in the second year of a business plan and since they own the building but have not regular source of funding, they need to generate income to maintain the huge building costs
- 77.12 Gaby Gilmore stated that she had been employed to manage the venue and realised one year ago that it could not progress without a licence. She confirmed that the venue had to tried to communicate as much as possible with the council and police in order to consider the welfare of the public. She then confirmed that she wanted to discuss the following points with the panel: 1. Waiter service, which Richard Carter would discuss and 2. the Condition 6 – vertical drinking at music events, which they wanted to within the café area, which they wanted to discuss.
- 77.13 Richard Carter stated that the Café area was small with 18- 20 seats in area and 4 are on high stools and that they planned to add seating along corridor. He added that if they had to operate a waiter service it would only have a small operating area and they wanted the public to be able to walk into the gallery area with the possibility of holding their drink, so that they were looking for a compromise on this.
- 77.14 Gaby Gilmore stated that they would struggle to find staff regarding Condition no. 4 – since the DPS could nominate people, but all staff were stipulated to have a DPS. Richard Carter confirmed that he and Sarah Davie had a DPS, but that staff for events were transient and would make this condition difficult.
- 77.15 Gaby Gilmore also queried Condition 10 regarding security guards as they would like to request changing the need for security after 9 pm only. She then explained that their largest events were private views which took place every six weeks and ran from 6 – 8 pm in the corridor and main gallery and therefore they would only require security for the last hour, but would have to pay for a minimum 4 hours for a security guard and gave an example of recent private view for Northbrook which followed these timing. They felt a requirement for a security guard for 4 hours was therefore excessive.

77.16 Ms Gilmore also queried the detail in Condition 8 regarding CCTV for all public areas, since this would include workshop rooms, - part of the three exhibition areas and she was concerned that cctv would encroach on people's privacy, since these rooms were often used for life drawing classes and children's events and therefore wanted this issue to be discussed by the panel.

Discussion & Questions to the Applicants

There was a long discussion with members of the Panel and all the Applicants in order to clarify the different conditions and areas of the building to be included within the licence. The following seven points are a summary of the main points of the discussion:

- **Licensing Hours**

77.17 Ms Gilmore confirmed that the reason the venue wanted long licensing hours was to cover events such as art labs which were bi-monthly and went on later in the evening and that the venue wanted to continue doing more theatre or comedy nights in the future. She confirmed that since they wanted to do regular events with café events every Wednesday, they would soon exceed the number of TENS they were allowed.

77.17 Ms Davies confirmed that their events were artist events and not music events and therefore they would not require live music after 11pm, since it would be only music as part of an exhibition. The Police Licensing Officer & Licensing Officer also confirmed that the Applicant did not require a licence for live or recorded music in a venue for up to 500 people, since it was de-regulated up to 10 pm. Councillor Marsh pointed out that therefore the public would have to finish consuming alcohol at 10pm even if the event finished at 11pm and Sarah Davies agreed that it was fair to limit alcohol to finishing at 10 pm. The Chair stated that the 10pm finishing time for alcohol within the main licence would be fairest for the local community.

77.18 Ms Davies queried what type of licence was required for an internal Christmas party and the Police Licensing Officer said a TEN notice would suffice for this.

- **Areas within the Venue to be licenced**

77.19 Councillor Knight asked where in the venue the Arts Lab events would take place. Ms Gilmore replied that there would be different areas including the café / gallery area and the music would have a seated audience.

77.20 The Chair stated that this was complex and the Applicant appeared to want to licence a very large area, with 5 floors and suggested that the areas that they should cut down the area they want to serve alcohol so that CCTV would not be required in those rooms and that it was policy to request venues to have waitress service, otherwise it would be licensed and categorised as a pub venue.

77.21 Councillor Marsh raised the issue of using the fifteen TENS licenses allowed per year to vary the licence when required. The Applicant, Becky replied that they had experienced no previous problems with applying for TENS, but had to be selective of when they were used and they wanted to have events on a weekly basis from now on and that those

requiring the sale of alcohol included: private views, artlabs, weekly artist led events. Councillor Marsh clarified the fact that they needed the licence changed to match a new business model now and the Applicant confirmed that this was true since they wanted to grow their business. The Chair confirmed that a full licence had to be enforceable with set space limits and limit the rooms they were requesting a licence for.

77.22 The Chair raised the issue that the sale of alcohol until 11pm for some kind of event would create noise disturbance in area due to post event deliveries and collections loading outside and stated that she did not think this condition was controlled enough

- **Type of events that the Venue will offer**

77.23 The Applicant represented by Sarah Davies and Ms Gilmore confirmed that events that the Venue would offer included: Art Labs which were bi-monthly and events / talks such as recent one with Henry Normal. The Chair asked whether there were music events planned and Ms Davies said there was sometimes music as part of an exhibition such as the Ed Briggs programme which started with 25 minutes of music then continued as a talk / exhibition event.

77.24 Councillor Marsh asked if it was possible to stop alcohol being sold at 10pm and after some discussion Ms Davies said that was probably a fair condition.

- **Security**

77.25 Councillor Knight queried the need for security from 9 pm and the Chair asked the Licensing Officer whether if the sale of alcohol stopped at 10 pm, then there would be a lower capacity of people and thus change the SIA – S Impact Area? The Licensing Officer confirmed that if the hours were reduced to 10pm then the conditions no.10 and no. 7 regarding the requirement for door persons on risk assessments could be dropped

- **Waitress service or Bar service for alcohol**

77.26 The Chair confirmed that in point no. 3 there should be waitress service within the café area and the Police Licensing Officer confirmed that he was confused about the service in the café. Ms Davies replied that the corridor was included as part of the café area and Ms Gilmore stated that since the café in the SSA was permitted to stay open until 11pm, they did not think there was a problem with this.

77.27 The Chair stated that the panel wanted to condition this license as an arts venue – not a pub and therefore asked about the North Road Mobile bar and at what times they were proposing to have this in operation? Ms Gilmore replied that they wanted to position this nearer the gallery. Councillor Knight suggested that the mobile bar could run from 5 – 10pm and Ms Gilmore replied that they were keen to ensure that it was run on normal café hours and wanted to avoid vertical drinking in this area. Councillor Marsh stated that if the café was open serving food then events should not take place in the café and a mobile bar could be used in space to serve drinks. The applicants handed out leaflets with picture of the venue to assist members of the panel and confirmed that the café seated 18 – 22 people and corridor seated 15 people. There was a long discussion about the areas in the café, the need to stipulate eating with drinking alcohol and various issues around the problem of licensing this area.

77.28 The applicant asked the panel for clarification that waitress service was defined as: a customer ordered alcohol, coffee or food at the bar and that any of these were then served to the customer at their table by staff. The panel confirmed that this was correct and the Applicant confirmed their acceptance of this.

77.29 The Applicant raised the area of the Green Room and the Chair confirmed that the Green Room was not included in the area until after 5pm.

- **Employment of staff with DPS requirement**

77.30 The applicant asked whether they could as a trained DPS on the premises, delegate the responsibility to someone else within the team. The Police Licensing Officer replied that the requirement was that someone on the premises must have a DPS licence and this would be required for a capacity of 200 people .

77.31 The Chair stated that regarding Condition 7, a TENS notice would be a better solution and therefore confirmed that Condition 7 would apply. The Chair also stated that regarding Condition 10 the first part should be deleted and the SIA registered should be employed on any occasion with a risk assessment required for larger events.

The Chair then requested a ten minute break in the proceedings for in order to talk with the Legal advisor and confirm a reasonable plan of action.

Further Questions to Applicant

77.24 The Police Licensing Officer asked the Applicant to clarify which events the Applicant envisaged unaccompanied children attending. Sarah Davies stated that they ran a family fun school for children and had a new safeguarding policy which included DBS trainers and that this would take place in training rooms that would not be licensed.

77.25 The Police Licensing Officer then asked about the condition of purchasing tickets as outlined in Condition 2 of the Addendum . Gaby confirmed that all events would be ticketed and that the public could buy a ticket on the door, if required.

77.26 The Licensing Authority Officer queried where the Licence boundary was within the the building plan map and the Applicant, Gaby drew this on the map and confirmed that the boundary from the Green to White areas was a lockable area.

SUMMARIES

77.27 The Licensing Officer Mark Savage Brookes summarised and stated the following:

“This is an application for a new premises licence for Phoenix Arts Association 10-14 Waterloo Place, Brighton.

The application proposes Plays, Exhibition of Film, Live Music, Recorded Music and Performance of Dance from 9am to midnight every day; and the sale of alcohol from

midday to 11pm every day. Other timings have been canvassed and discussed during the course of this meeting.

Conditions were agreed with Environmental Protection and proposed by Sussex Police prior to the hearing and further conditions and control measures were also offered by the applicant within their original application. Conditions have also been discussed during the course of this meeting.

Two relevant representations remain outstanding against this application and you have read these and heard from all parties present.

The premises sits within a special stress area which as stated in our Statement of Licensing Policy is deemed an area of special concern in terms of the levels of crime and disorder and nuisance experienced. The policy states that new applications for premises within the Special Stress Area will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas.

Licensing Guidance (9.38) states that: In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy

It is important to note that each application will be given individual consideration on its own merit.”

77.28 The Police Licensing Officer Mark Thorogood gave the following summary:

“The concerns from Sussex Police about this application was the capacity and the fact under the conditions being offered, it could easily hold alcohol led events. Due to the suggestions put forward and the agreement to certain conditions, the concerns we had have now been addressed. “

77.29 The Licensing Officer Becky Pratley gave the following brief summary:

“I acknowledge that the application now falls well within our SoLP, I therefore ask that the panel determine the outcome of this application.”

77.30 The Chair added that Condition 8 should be amended to read that loading should be done by 11pm, so that this did not affect residents.

Decision:

77.31 **RESOLVED** – The Panel’s decision was as follows:

“This is an application for the sale of alcohol and regulated entertainment within a café and event space on the ground floor of the premises. The premises is in the Special Stress Area (SSA) as detailed in the Statement of Licensing policy which is an area of concern to the licensing authority because of the relatively high levels of crime and disorder and nuisance experienced within it. The original application has been amended to reduce the hours for sale of alcohol to 23:00 hours and confirm agreement to some of the conditions proposed by the police. Conditions had been agreed with the Environmental Protection Team.

Representations have been made by the licensing authority and the police. Concerns centred around the location of these premises which is in the SSA and in close proximity to the Level which is a very challenging area for policing. In addition the potential capacity of the premises of 500 persons attending events was of concern to the responsible authorities in the absence of robust conditions to address this.

The panel shared the concerns of the Responsible Authorities. We were keen to clarify with the Applicants how they intended to operate the premises and promote the licensing objectives. They stressed that they were a registered charity providing affordable studio space to artists and to promote art to a wider audience. There was a rolling programme of exhibitions and the applicants wished to extend and develop their events to include theatre and comedy and some music. The operation of the café area was clarified and conditions agreed in relation to this area. Further, to address concerns around capacity and CCTV, the applicants agreed to remove the White Room, Red Room and Blue Room from the application so that no alcohol could be sold or consumed in these areas. (A revised plan to be submitted). In response to concerns the applicants agreed to amend the times for sale of alcohol to 22:00 hours and closing time to 23:00 hours every day.

Therefore, upon the canvassing of, and agreement to a number of conditions which the panel believed would promote the licensing objectives, deal with the concerns raised and emphasise the non-alcohol led character of the activities, the panel have decided to grant this application with the following licensable activities and conditions to be attached to the licence:

1. Sale of alcohol to be from 12:00 to 22:00 hours every day save for the Green Room as shown on the plan where the hours will be 17:00 to 22:00 every day.
Regulated entertainment to 23:00 hours every day.
Closing time to be 23:00 hours every day.
2. The licensed café area (which includes the corridor area as shown on the plan) shall operate to the following times and conditions:
12:00 to 17:00 hours every day. During this time the sale of alcohol within the café area shall be by waiter/waitress service for consumption by persons seated at tables.
Substantial food shall be available at all times.

Alcohol shall not be sold in the Green room during these times.

When alcohol is sold in the café area after 17:00 the café condition will not apply and the area will be subject to the general conditions on the licence as a whole.

Amended Police conditions

1. Authorised staff employed by Sussex Police shall have free access to all parts of the licensed premises at all times licensable activity is taking place or when open to members of the public, for the purpose of inspection to ensure compliance with the terms and conditions of the premises licence and to ensure the promotion of the licensing objectives.
2. Excluding the café area, alcohol will only be made available to persons attending a pre booked event and who are in possession of a valid ticket or listed on a guest list.
3. Whenever the premises is conducting the sale of alcohol for events for 200 persons or more then either the designated premises supervisor or another personal licence holder shall be present within the licensed premises.
4. A list of staff members who are authorised to sell alcohol on the premises shall be kept. This shall be endorsed by the DPS with the date such authorisation commences.
5. During the performance of live or recorded music, the sale of intoxicating liquor shall be for consumption by seated persons and there will be no vertical drinking, excluding carrying drinks purchased at the bar to seats. Exclusion to this is when background music or no music is being played and/or during an Art exhibition.
6. Celebratory events such as birthdays, weddings and seasonal events such as Christmas and New Year's Eve parties are not permitted under this licence.
7. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times. CCTV footage will be stored for a minimum of 31 days. The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.

The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.

Subject to GDPR guidance and legislation, the management of the premises will Ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.

Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.

In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

8. An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week. The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence. Any refusals made for alcohol service e.g. underage, will also be recorded (either in electronic or written form) and feedback given to staff as relevant. The log will be kept for a minimum of twenty four (24) months.
 9. The premises will operate an age verification policy set at a minimum of 25 years (e.g. "Challenge 25") whereby any person attempting to buy alcohol who appears to be under the specified age e.g. 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.
 10. Signage advertising the 'Challenge 25' policy will be displayed in prominent locations in the premises.
 11. a) The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:
 - * The lawful selling of age restricted products
 - * Refusing the sale of alcohol to a person who is drunkb) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 8 weeks, with the date and time of the verbal reinforcement/refresher training documented.
 - c) All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.
12. SIA registered door supervisors shall be employed on any occasion when a requirement is identified by the licence holder's written risk assessment or requested

Introduction from Licensing Officer

77.3 The Licensing Officer Mark Savage Brooks stated the following:

“Today you will hear an application for a new Premises Licence for Phoenix Arts Association, located at 10-14 Waterloo Place, Brighton. The premises provides affordable studio space to artists as well as hosting exhibitions and events. The applicant state in the application that they are installing a café and increasing the number of events, within the public space located on the ground floor of the building. A full description of the applicant, the premises and the operation can be found within the report papers on page 5 in paragraph 3.1.

The applicant provided further clarification last week about the premises operation and amended some of the times originally applied for, confirming that the two types of operation proposed under the licence within the premises are a café and events. An Addendum paper was circulated last week and this information can be seen on page 7 and 8 of this.

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The Representations, proposed conditions and agreed conditions can all be found in Appendix C from page 33 to 42.

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It is important to note that each application will be given individual consideration on its own merits."

Questions to the Licensing Officer

- 77.4 The Chair asked whether the premises was without a licence currently and the Licensing Officer replied that it did not have a current licence, but they had utilised Temporary Event Notices (TENs).
- 77.5 Councillor Marsh asked regarding page 7 of the Addendum whether the venue was showing theatre plays or films and the Licensing Officer clarified this point that there was no change to the existing criteria in those categories listed.

Representations from Responsible Authorities

Police Licensing Officer

- 77.6 The Police Licensing Officer Mark Thorogood addressed the panel and stated the following:

"This is an application for a new premises licence for Phoenix Arts Association situated along Waterloo Place, an area which falls within the Special Stress Area as set out in the Brighton & Hove City Council Statement of Licensing Policy.

The applicant was originally seeking a licence to permit the sale of alcohol via on-sales between the hours of 12:00 and Midnight, 7 days a week however, on Thursday we have been notified of a change to this along with other alterations to the application as mentioned by Mark Savage-Brooks in his presentation. We understand the alcohol termination hour is now 23:00hrs.

The style of operation could be described as a 'non-alcohol led' as the applicant states '*Phoenix Arts Association is a charity existing to provide affordable studio spaces to artists in Brighton and Hove*'. However, the licensable activities being applied for would permit the venue to operate in a number of different ways including the ability to have alcohol led events such as private hire parties and music events. In a 500 capacity venue, this is of concern to Sussex Police.

Though the applicant has submitted a comprehensive list of measures to assist in promoting the licensing objectives, Sussex Police do not believe they go far enough to ensure the premises will operate as a non-alcohol led venue and mitigate the risk of having a negative impact on the surrounding area and policing.

Within your agenda pack from page 39, you will find a number of conditions we put to the applicant some of which have been agreed on however, ones that Sussex Police believe ensure the premises will be one that is non-alcohol led have not.

This includes:

- When in operation, the café area is run as such by having café conditions.
- Limiting the type of music events that can be held by ensuring these are seated with no vertical drinking.
- Restricting the type of events that can be held to ensure this is a non-alcohol led venue. Such as prohibiting Birthdays/Christmas parties etc.
- To assist in crime reduction and public safety, ensure SIA security are on duty during peak times of Friday & Saturday nights.

One of our main concerns is the capacity and with the conditions currently not been agreed to, the venue could be used for DJ / party nights which could then in turn require the assistance of blue light services.

In terms of the location, the premises is by The Level, an area which has a number of anti-social behaviour issues which is often fuelled by alcohol. Reviewing the Public Health Framework report for Assessing Alcohol Licensing 2019 5th edition, Hanover and Elm Grove ward, of which this location is within, is 11th out of 21 wards for police recorded alcohol related incidents. The Level is also included within the Operation Marble area, Sussex Police response to night time economy policing.

Intoxicated persons can easily become a victim of crime. By granting an alcohol licence to a premises within an area of concern without strict conditions is a concern for Sussex Police and the impact it could have on the surrounding area. It is for this reason Sussex Police feel strongly that this application should be heard and considered before a licensing panel. “

Questions to the Police Licensing Officer

- 77.7 The Chair stated she was worried about the possibility of alcohol-led events and the capacity of the venue and she asked whether the Police Licensing Officer had spoken to the applicants about the potential noise problem for local residents. The Police Licensing Officer replied that after several weeks of consulting with the applicants who had been very open in their communication, they had now submitted a draft proposal which still had unresolved conditions within it. He confirmed that any noise issues tended to be taken up by the Environmental Health officers and that the main impact would be felt on The Level, which was nearby and its problems had been well publicised. The Chair commented that the drug dealing in this area was worrying and the Police Licensing Officer replied that it was important to ensure that the licence safeguarded the future of the area.
- 77.8 Councillor Marsh queried the events mentioned in p. 10 Condition 3 of the Addendum and the Police Licensing Officer replied that since this was a late addition, he had not had time to discuss this with the applicant and stated that Conditions: 3,4,6,7 and 10

were conditions he wanted to check in order to ensure that this was not an alcohol-led venue. Councillor Marsh replied that she agreed that these should be agreed by the applicant to give more assurance to the panel on this issue.

Representation from the Licensing Authority Officer

77.9 The Licensing Authority Officer Becky Pratley addressed the Panel and stated the following:

“My representation is on behalf of the Licensing Authority and can be found on pages 33-35 of today’s agenda.

As a Licensing Officer, part of my role is as a guardian of our Statement of Licensing Policy and to uphold this policy, which provides a vision of what the Licensing Authority would like to see within its area. The application before you today for Phoenix Arts Association based in Waterloo Place, is in our Special Stress Area.

My representation was made on the grounds of the Prevention of Crime and Disorder, the Prevention of Public Nuisance and to uphold our Statement of Licensing policy so that the panel can determine the application.

The original application was contrary to our Statement of Licensing Policy (SoLP). Following the amendments now made to the application, that appear in the addendum, the application is within policy in the category of a pub. With a potential maximum capacity of 500, selling alcohol every day until 11pm with regulated entertainment such as live and recorded music, films, plays and dance until midnight daily.

Gabby did contact me following receipt of my representation and we had a lengthy discussion about the application and the matrix and my concerns regarding the lack of clarity on the application and the plans. Pubs Vs cafes discussed. The large capacity 500. I appreciate predicted hours for the opening of the café have been submitted but these are not enforceable as this addendum stipulates on p7 these may be subject to change. We are therefore essentially back to the description I have given above as a 50 or 500 capacity pub within the Special Stress Area depending on the events scheduled for that day.

The premises falls in Hanover and Elm Grove ward of the City, which according to our Public Health Framework for Assessing Alcohol Licensing (4th edition) is ranked the 4th worst ward out of 21 wards under the Health data for ‘Increasing risk or higher risk drinking’.

I do not believe that the amended application or the conditions agreed in the addendum offer a clear vision of how this premises would operate on a day to day basis. I therefore request the panel examine this application to determine whether it should be granted or refused.”

Questions to the Licensing Authority Officer

77.10 The Chair asked whether the conditions within the appendix implied that there would be a bar at the venue, – rather than waitress service, since the Cafe already employed barista for coffee. The Licensing Authority Officer confirmed that this could be tailored to suit the venue. The Chair then queried the large 500 people capacity of the venue and whether the police had requested that there should be waiter service and the Licensing Authority Officer answered that although she had not visited the venue, the service would be expected to be the same as a pub. The Chair then queried whether the hours requested should be kept for the café and the Police Licensing Officer replied that the hours stated were too loose at present and needed to be amended and the Chair stated that since there was no representative from Environmental Health at the panel, she would put her queries on the issues of noise and unloading directly to the Applicant instead.

Applicant

Representation from the Applicant: Sarah Davies, Gaby Gilmore and Richard Carter – all representing Phoenix Arts

- 77.11 The Applicant Sarah Davies confirmed that Phoenix Arts was a regulated Charity and existed to offer affordable studio space to freelance workers and to promote art to a wider audience with a rolling educational and exhibition programme. She confirmed that that they had bought the building 25 years ago and that there were 120 artists who used the building and all had separate agreements with the charity. She also confirmed that they were active in the community and that Councillors Gibson and Daniel had worked with them to create a residents community association. She confirmed that they were in the second year of a business plan and since they own the building but have not regular source of funding, they need to generate income to maintain the huge building costs
- 77.12 Gaby Gilmore stated that she had been employed to manage the venue and realised one year ago that it could not progress without a licence. She confirmed that the venue had to tried to communicate as much as possible with the council and police in order to consider the welfare of the public. She then confirmed that she wanted to discuss the following points with the panel: 1. Waiter service, which Richard Carter would discuss and 2. the Condition 6 – vertical drinking at music events, which they wanted to within the café area, which they wanted to discuss.
- 77.13 Richard Carter stated that the Café area was small with 18- 20 seats in area and 4 are on high stools and that they planned to add seating along corridor. He added that if they had to operate a waiter service it would only have a small operating area and they wanted the public to be able to walk into the gallery area with the possibility of holding their drink, so that they were looking for a compromise on this.
- 77.14 Gaby Gilmore stated that they would struggle to find staff regarding Condition no. 4 – since the DPS could nominate people, but all staff were stipulated to have a DPS. Richard Carter confirmed that he and Sarah Davie had a DPS, but that staff for events were transient and would make this condition difficult.
- 77.15 Gaby Gilmore also queried Condition 10 regarding security guards as they would like to request changing the need for security after 9 pm only. She then explained that

their largest events were private views which took place every six weeks and ran from 6 – 8 pm in the corridor and main gallery and therefore they would only require security for the last hour, but would have to pay for a minimum 4 hours for a security guard and gave an example of recent private view for Northbrook which followed these timing. They felt a requirement for a security guard for 4 hours was therefore excessive.

- 77.16 Ms Gilmore also queried the detail in Condition 8 regarding CCTV for all public areas, since this would include workshop rooms, - part of the three exhibition areas and she was concerned that cctv would encroach on people's privacy, since these rooms were often used for life drawing classes and children's events and therefore wanted this issue to be discussed by the panel.

Discussion & Questions to the Applicants

There was a long discussion with members of the Panel and all the Applicants in order to clarify the different conditions and areas of the building to be included within the licence. The following seven points are a summary of the main points of the discussion:

- **Licensing Hours**

- 77.17 Ms Gilmore confirmed that the reason the venue wanted long licensing hours was to cover events such as art labs which were bi-monthly and went on later in the evening and that the venue wanted to continue doing more theatre or comedy nights in the future. She confirmed that since they wanted to do regular events with café events every Wednesday, they would soon exceed the number of TENS they were allowed.
- 77.17 Ms Davies confirmed that their events were artist events and not music events and therefore they would not require live music after 11pm, since it would be only music as part of an exhibition . The Police Licensing Officer & Licensing Officer also confirmed that the Applicant did not require a licence for live or recorded music in a venue for up to 500 people, since it was de-regulated up to 10 pm. Councillor Marsh pointed out that therefore the public would have to finish consuming alcohol at 10pm even if the event finished at 11pm and Sarah Davies agreed that it was fair to limit alcohol to finishing at 10 pm. The Chair stated that the 10pm finishing time for alcohol within the main licence would be fairest for the local community.
- 77.18 Ms Davies queried what type of licence was required for an internal Christmas party and the Police Licensing Officer said a TEN notice would suffice for this.

- **Areas within the Venue to be licenced**

- 77.19 Councillor Knight asked where in the venue the Arts Lab events would take place. Ms Gilmore replied that there would be different areas including the café / gallery area and the music would have a seated audience.
- 77.20 The Chair stated that this was complex and the Applicant appeared to want to licence a very large area, with 5 floors and suggested that the areas that they should cut down the area they want to serve alcohol so that CCTV would not be required in those rooms and

that it was policy to request venues to have waitress service, otherwise it would be licensed and categorised as a pub venue.

77.21 Councillor Marsh raised the issue of using the fifteen TENS licenses allowed per year to vary the licence when required. The Applicant, Becky replied that they had experienced no previous problems with applying for TENS, but had to be selective of when they were used and they wanted to have events on a weekly basis from now on and that those requiring the sale of alcohol included: private views, artlabs, weekly artist led events. Councillor Marsh clarified the fact that they needed the licence changed to match a new business model now and the Applicant confirmed that this was true since they wanted to grow their business. The Chair confirmed that a full licence had to be enforceable with set space limits and limit the rooms they were requesting a licence for.

77.22 The Chair raised the issue that the sale of alcohol until 11pm for some kind of event would create noise disturbance in area due to post event deliveries and collections loading outside and stated that she did not think this condition was controlled enough

- **Type of events that the Venue will offer**

77.23 The Applicant represented by Sarah Davies and Ms Gilmore confirmed that events that the Venue would offer included: Art Labs which were bi-monthly and events / talks such as recent one with Henry Normal. The Chair asked whether there were music events planned and Ms Davies said there was sometimes music as part of an exhibition such as the Ed Briggs programme which started with 25 minutes of music then continued as a talk / exhibition event.

77.24 Councillor Marsh asked if it was possible to stop alcohol being sold at 10pm and after some discussion Ms Davies said that was probably a fair condition.

- **Security**

77.25 Councillor Knight queried the need for security from 9 pm and the Chair asked the Licensing Officer whether if the sale of alcohol stopped at 10 pm, then there would be a lower capacity of people and thus change the SIA – S Impact Area? The Licensing Officer confirmed that if the hours were reduced to 10pm then the conditions no.10 and no. 7 regarding the requirement for door persons on risk assessments could be dropped

- **Waitress service or Bar service for alcohol**

77.26 The Chair confirmed that in point no. 3 there should be waitress service within the café area and the Police Licensing Officer confirmed that he was confused about the service in the café. Ms Davies replied that the corridor was included as part of the café area and Ms Gilmore stated that since the café in the SSA was permitted to stay open until 11pm, they did not think there was a problem with this.

77.27 The Chair stated that the panel wanted to condition this license as an arts venue – not a pub and therefore asked about the North Road Mobile bar and at what times they were proposing to have this in operation? Ms Gilmore replied that they wanted to position this nearer the gallery. Councillor Knight suggested that the mobile bar could run from 5 – 10pm and Ms Gilmore replied that they were keen to ensure that it was

run on normal café hours and wanted to avoid vertical drinking in this area. Councillor Marsh stated that if the café was open serving food then events should not take place in the café and a mobile bar could be used in space to serve drinks. The applicants handed out leaflets with picture of the venue to assist members of the panel and confirmed that the café seated 18 – 22 people and corridor seated 15 people. There was a long discussion about the areas in the café, the need to stipulate eating with drinking alcohol and various issues around the problem of licensing this area.

77.28 The applicant asked the panel for clarification that waitress service was defined as: a customer ordered alcohol, coffee or food at the bar and that any of these were then served to the customer at their table by staff. The panel confirmed that this was correct and the Applicant confirmed their acceptance of this.

77.29 The Applicant raised the area of the Green Room and the Chair confirmed that the Green Room was not included in the area until after 5pm.

- **Employment of staff with DPS requirement**

77.30 The applicant asked whether they could as a trained DPS on the premises, delegate the responsibility to someone else within the team. The Police Licensing Officer replied that the requirement was that someone on the premises must have a DPS licence and this would be required for a capacity of 200 people .

77.31 The Chair stated that regarding Condition 7, a TENS notice would be a better solution and therefore confirmed that Condition 7 would apply. The Chair also stated that regarding Condition 10 the first part should be deleted and the SIA registered should be employed on any occasion with a risk assessment required for larger events.

The Chair then requested a ten minute break in the proceedings for in order to talk with the Legal advisor and confirm a reasonable plan of action.

Further Questions to Applicant

77.24 The Police Licensing Officer asked the Applicant to clarify which events the Applicant envisaged unaccompanied children attending. Sarah Davies stated that they ran a family fun school for children and had a new safeguarding policy which included DBS trainers and that this would take place in training rooms that would not be licensed.

77.25 The Police Licensing Officer then asked about the condition of purchasing tickets as outlined in Condition 2 of the Addendum . Gaby confirmed that all events would be ticketed and that the public could buy a ticket on the door, if required.

77.26 The Licensing Authority Officer queried where the Licence boundary was within the the building plan map and the Applicant, Gaby drew this on the map and confirmed that the boundary from the Green to White areas was a lockable area.

SUMMARIES

77.27 The Licensing Officer Mark Savage Brookes summarised and stated the following:

“This is an application for a new premises licence for Phoenix Arts Association 10-14 Waterloo Place, Brighton.

The application proposes Plays, Exhibition of Film, Live Music, Recorded Music and Performance of Dance from 9am to midnight every day; and the sale of alcohol from midday to 11pm every day. Other timings have been canvassed and discussed during the course of this meeting.

Conditions were agreed with Environmental Protection and proposed by Sussex Police prior to the hearing and further conditions and control measures were also offered by the applicant within their original application. Conditions have also been discussed during the course of this meeting.

Two relevant representations remain outstanding against this application and you have read these and heard from all parties present.

The premises sits within a special stress area which as stated in our Statement of Licensing Policy is deemed an area of special concern in terms of the levels of crime and disorder and nuisance experienced. The policy states that new applications for premises within the Special Stress Area will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas.

Licensing Guidance (9.38) states that: In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy

It is important to note that each application will be given individual consideration on its own merit.”

77.28 The Police Licensing Officer Mark Thorogood gave the following summary:

“The concerns from Sussex Police about this application was the capacity and the fact under the conditions being offered, it could easily hold alcohol led events. Due to the suggestions put forward and the agreement to certain conditions, the concerns we had have now been addressed. “

77.29 The Licensing Officer Becky Pratley gave the following brief summary:

“I acknowledge that the application now falls well within our SoLP, I therefore ask that the panel determine the outcome of this application.”

77.30 The Chair added that Condition 8 should be amended to read that loading should be done by 11pm, so that this did not affect residents.

Decision:

77.31 **RESOLVED** – The Panel’s decision was as follows:

“This is an application for the sale of alcohol and regulated entertainment within a café and event space on the ground floor of the premises. The premises is in the Special Stress Area (SSA) as detailed in the Statement of Licensing policy which is an area of concern to the licensing authority because of the relatively high levels of crime and disorder and nuisance experienced within it. The original application has been amended to reduce the hours for sale of alcohol to 23:00 hours and confirm agreement to some of the conditions proposed by the police. Conditions had been agreed with the Environmental Protection Team.

Representations have been made by the licensing authority and the police. Concerns centred around the location of these premises which is in the SSA and in close proximity to the Level which is a very challenging area for policing. In addition the potential capacity of the premises of 500 persons attending events was of concern to the responsible authorities in the absence of robust conditions to address this.

The panel shared the concerns of the Responsible Authorities. We were keen to clarify with the Applicants how they intended to operate the premises and promote the licensing objectives. They stressed that they were a registered charity providing affordable studio space to artists and to promote art to a wider audience. There was a rolling programme of exhibitions and the applicants wished to extend and develop their events to include theatre and comedy and some music. The operation of the café area was clarified and conditions agreed in relation to this area. Further, to address concerns around capacity and CCTV, the applicants agreed to remove the White Room, Red Room and Blue Room from the application so that no alcohol could be sold or consumed in these areas. (A revised plan to be submitted). In response to concerns the applicants agreed to amend the times for sale of alcohol to 22:00 hours and closing time to 23:00 hours every day.

Therefore, upon the canvassing of, and agreement to a number of conditions which the panel believed would promote the licensing objectives, deal with the concerns raised and emphasise the non-alcohol led character of the activities, the panel have decided to grant this application with the following licensable activities and conditions to be attached to the licence:

1. Sale of alcohol to be from 12:00 to 22:00 hours every day save for the Green Room as shown on the plan where the hours will be 17:00 to 22:00 every day.
Regulated entertainment to 23:00 hours every day.
Closing time to be 23:00 hours every day.
2. The licensed café area (which includes the corridor area as shown on the plan) shall operate to the following times and conditions:

12:00 to 17:00 hours every day. During this time the sale of alcohol within the café area shall be by waiter/waitress service for consumption by persons seated at tables. Substantial food shall be available at all times.

Alcohol shall not be sold in the Green room during these times.

When alcohol is sold in the café area after 17:00 the café condition will not apply and the area will be subject to the general conditions on the licence as a whole.

Amended Police conditions

1. Authorised staff employed by Sussex Police shall have free access to all parts of the licensed premises at all times licensable activity is taking place or when open to members of the public, for the purpose of inspection to ensure compliance with the terms and conditions of the premises licence and to ensure the promotion of the licensing objectives.
2. Excluding the café area, alcohol will only be made available to persons attending a pre booked event and who are in possession of a valid ticket or listed on a guest list.
3. Whenever the premises is conducting the sale of alcohol for events for 200 persons or more then either the designated premises supervisor or another personal licence holder shall be present within the licensed premises.
4. A list of staff members who are authorised to sell alcohol on the premises shall be kept. This shall be endorsed by the DPS with the date such authorisation commences.
5. During the performance of live or recorded music, the sale of intoxicating liquor shall be for consumption by seated persons and there will be no vertical drinking, excluding carrying drinks purchased at the bar to seats. Exclusion to this is when background music or no music is being played and/or during an Art exhibition.
6. Celebratory events such as birthdays, weddings and seasonal events such as Christmas and New Year's Eve parties are not permitted under this licence.
7. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times. CCTV footage will be stored for a minimum of 31 days. The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.

The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.

Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.

Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.

In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

8. An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week. The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence. Any refusals made for alcohol service e.g. underage, will also be recorded (either in electronic or written form) and feedback given to staff as relevant. The log will be kept for a minimum of twenty four (24) months.
9. The premises will operate an age verification policy set at a minimum of 25 years (e.g. "Challenge 25") whereby any person attempting to buy alcohol who appears to be under the specified age e.g. 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.
10. Signage advertising the 'Challenge 25' policy will be displayed in prominent locations in the premises.
11. a) The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:
 - * The lawful selling of age restricted products
 - * Refusing the sale of alcohol to a person who is drunk

- b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 8 weeks, with the date and time of the verbal reinforcement/refresher training documented.
- c) All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.
12. SIA registered door supervisors shall be employed on any occasion when a requirement is identified by the licence holder's written risk assessment or requested by Sussex Police in writing at least 48 hours in advance. The written risk assessment will be reviewed at least once every calendar year. The written risk assessment will take into account information or guidance offered by the police, and also taking into account busy periods such as Bank Holidays, Season Variations and other City Centre Events e.g. Pride. The written risk assessment will be available on the premises for inspection by police and authorised officers of the Licensing Authority.

Conditions agreed with Environmental Protection Team:

1. Doors and windows will be kept closed while events are taking place. This will be supervised by Door staff and/or other staff as appropriate.
2. Door staff and/or other staff will make regular checks of the outside of the premises to ensure that sound levels do not impact on neighbouring properties.
3. The licensee must ensure that people on or leaving the premises including smokers, conduct themselves in an orderly manner at all times and do not in any way cause annoyance to residents and people passing by the premises. Appropriate signage to this effect to be displayed inside the premises.
4. Numbers of those smoking will be limited to 6 people at the public entrances which face the main road and managed by door staff and/or other staff.
5. No smoking is permitted at the back of the building nearest the residential area.
6. Deliveries and collections will be scheduled between 7am and 7pm.
7. Post event loading will be done carefully and quietly by 23:00 hours and supervised by Phoenix staff and managed in such a way as to minimise disruption.

There will also be attached to the licence such other conditions as appropriate from the applicants operating schedule where not superseded by the above conditions.

Overall the panel consider that the above conditions will ensure that the operation of the premises promotes the licensing objectives within this challenging area.”

The meeting concluded at 1.25pm

Signed

Chair

Dated this

day of

75 TO APPOINT A CHAIR FOR THE MEETING

75.1 Councillor O'Quinn was appointed Chair for the meeting.

76 PROCEDURAL BUSINESS**76a Declaration of Substitutes**

76.1 There were none.

76b Declarations of Interest

70.2 There were none.

76c Exclusion of the Press and Public

In accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2003, the Licensing Panel considered whether the public interest in excluding the public and press from all or any part of the hearing outweighed the public interest of the hearing taking place in public.

76.3 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of Item 77.

77 PHOENIX ARTS ASSOCIATION LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

77.1 The Chair introduced the Panel

77.2 The Panel considered a report of the Director of Neighbourhoods, Communities and Housing to determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for Phoenix Arts Association.

Introduction from Licensing Officer

77.3 The Licensing Officer Mark Savage Brooks stated the following:
"Today you will hear an application for a new Premises Licence for Phoenix Arts Association, located at 10-14 Waterloo Place, Brighton. The premises provides affordable studio space to artists as well as hosting exhibitions and events. The applicant state in the application that they are installing a café and increasing the number of events, within the public space located on the ground floor of the building. A full description of the applicant, the premises and the operation can be found within the report papers on page 5 in paragraph 3.1.

The applicant provided further clarification last week about the premises operation and amended some of the times originally applied for, confirming that the two types of operation proposed under the licence within the premises are a café and events. An

Addendum paper was circulated last week and this information can be seen on page 7 and 8 of this.

The application originally proposed the licensable activities as seen in the Summary Table in section 3.3 on page 6 of today's report papers; however some of these were amended by the applicant last week to those seen in the Addendum paper on page 7.

I confirm that the applicant is therefore applying for the regulated entertainment activities of Plays, Exhibition of Film, Live Music, Recorded Music and Performance of Dance from 9am to midnight every day; and also for the sale of alcohol from midday to 11pm every day, with opening hours of 8am to midnight every day.

The applicant state in their addendum information that these times cover the period in which events may take place and have provided an extra set of times for the café area – these are 8am to 5pm Thursday to Tuesday and 8am to 9pm on Wednesdays. It is noted that these times are caveated with the comments 'subject to change' and that 'the cafe will also be open for selected events where appropriate'.

The licensing team received two representations in regard to this application – one from the Licensing Authority and one from Sussex Police. The representations contain relevant concerns relating to all four of the licensing objectives – the prevention of crime of disorder, public safety, the prevention of public nuisance and protection of children from harm. Sussex Police attached a list of proposed conditions to their representation and the applicant has referred to this in their Addendum information, agreeing to some of these conditions and indicating that they wish to discuss others further today.

An agreement of conditions relating to preventing public nuisance was reached with the Environmental protection team as seen on page 42.

The Representations, proposed conditions and agreed conditions can all be found in Appendix C from page 33 to 42.

The applicant also offered control measures and conditions within their Operating Schedule, which can be seen in Appendix A on pages 23 to 30.

The premises sit within a special stress area which, as stated in our Statement of Licensing Policy at 3.2 ([starting p8 of today's papers and p15 of SoLP](#)), is deemed an area of special concern in terms of the levels of crime and disorder and nuisance experienced. The policy states that new applications for premises within the SSA will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas. The SoLP also provides a list of potential measures that could be adopted, depending on the style of operation applied for.

The adoption of the Matrix approach to licensing decisions found in the statement of licensing policy ([p17](#)) and this agenda ([from p10](#)) includes a table with provisions for a terminal hour for all classes of license premises in a particular area, recognising the diverse operations and different risks presented by those premises.

It is important to note that each application will be given individual consideration on its own merits.”

Questions to the Licensing Officer

- 77.4 The Chair asked whether the premises was without a licence currently and the Licensing Officer replied that it did not have a current licence, but they had utilised Temporary Event Notices (TENS).
- 77.5 Councillor Marsh asked regarding page 7 of the Addendum whether the venue was showing theatre plays or films and the Licensing Officer clarified this point that there was no change to the existing criteria in those categories listed.

Representations from Responsible Authorities

Police Licensing Officer

- 77.6 The Police Licensing Officer Mark Thorogood addressed the panel and stated the following:

“This is an application for a new premises licence for Phoenix Arts Association situated along Waterloo Place, an area which falls within the Special Stress Area as set out in the Brighton & Hove City Council Statement of Licensing Policy.

The applicant was originally seeking a licence to permit the sale of alcohol via on-sales between the hours of 12:00 and Midnight, 7 days a week however, on Thursday we have been notified of a change to this along with other alterations to the application as mentioned by Mark Savage-Brooks in his presentation. We understand the alcohol termination hour is now 23:00hrs.

The style of operation could be described as a ‘non-alcohol led’ as the applicant states *‘Phoenix Arts Association is a charity existing to provide affordable studio spaces to artists in Brighton and Hove’*. However, the licensable activities being applied for would permit the venue to operate in a number of different ways including the ability to have alcohol led events such as private hire parties and music events. In a 500 capacity venue, this is of concern to Sussex Police.

Though the applicant has submitted a comprehensive list of measures to assist in promoting the licensing objectives, Sussex Police do not believe they go far enough to ensure the premises will operate as a non-alcohol led venue and mitigate the risk of having a negative impact on the surrounding area and policing.

Within your agenda pack from page 39, you will find a number of conditions we put to the applicant some of which have been agreed on however, ones that Sussex Police believe ensure the premises will be one that is non-alcohol led have not.

This includes:

- When in operation, the café area is run as such by having café conditions.
- Limiting the type of music events that can be held by ensuring these are seated with no vertical drinking.
- Restricting the type of events that can be held to ensure this is a non-alcohol led venue. Such as prohibiting Birthdays/Christmas parties etc.

- To assist in crime reduction and public safety, ensure SIA security are on duty during peak times of Friday & Saturday nights.

One of our main concerns is the capacity and with the conditions currently not been agreed to, the venue could be used for DJ / party nights which could then in turn require the assistance of blue light services.

In terms of the location, the premises is by The Level, an area which has a number of anti-social behaviour issues which is often fuelled by alcohol. Reviewing the Public Health Framework report for Assessing Alcohol Licensing 2019 5th edition, Hanover and Elm Grove ward, of which this location is within, is 11th out of 21 wards for police recorded alcohol related incidents. The Level is also included within the Operation Marble area, Sussex Police response to night time economy policing.

Intoxicated persons can easily become a victim of crime. By granting an alcohol licence to a premises within an area of concern without strict conditions is a concern for Sussex Police and the impact it could have on the surrounding area. It is for this reason Sussex Police feel strongly that this application should be heard and considered before a licensing panel. “

Questions to the Police Licensing Officer

- 77.7 The Chair stated she was worried about the possibility of alcohol-led events and the capacity of the venue and she asked whether the Police Licensing Officer had spoken to the applicants about the potential noise problem for local residents. The Police Licensing Officer replied that after several weeks of consulting with the applicants who had been very open in their communication, they had now submitted a draft proposal which still had unresolved conditions within it. He confirmed that any noise issues tended to be taken up by the Environmental Health officers and that the main impact would be felt on The Level, which was nearby and its problems had been well publicised. The Chair commented that the drug dealing in this area was worrying and the Police Licensing Officer replied that it was important to ensure that the licence safeguarded the future of the area.
- 77.8 Councillor Marsh queried the events mentioned in p. 10 Condition 3 of the Addendum and the Police Licensing Officer replied that since this was a late addition, he had not had time to discuss this with the applicant and stated that Conditions: 3,4,6,7 and 10 were conditions he wanted to check in order to ensure that this was not an alcohol-led venue. Councillor Marsh replied that she agreed that these should be agreed by the applicant to give more assurance to the panel on this issue.

Representation from the Licensing Authority Officer

- 77.9 The Licensing Authority Officer Becky Pratley addressed the Panel and stated the following:

“My representation is on behalf of the Licensing Authority and can be found on pages 33-35 of today’s agenda.

As a Licensing Officer, part of my role is as a guardian of our Statement of Licensing Policy and to uphold this policy, which provides a vision of what the Licensing Authority would like to see within its area. The application before you today for Phoenix Arts Association based in Waterloo Place, is in our Special Stress Area.

My representation was made on the grounds of the Prevention of Crime and Disorder, the Prevention of Public Nuisance and to uphold our Statement of Licensing policy so that the panel can determine the application.

The original application was contrary to our Statement of Licensing Policy (SoLP). Following the amendments now made to the application, that appear in the addendum, the application is within policy in the category of a pub. With a potential maximum capacity of 500, selling alcohol every day until 11pm with regulated entertainment such as live and recorded music, films, plays and dance until midnight daily.

Gabby did contact me following receipt of my representation and we had a lengthy discussion about the application and the matrix and my concerns regarding the lack of clarity on the application and the plans. Pubs Vs cafes discussed. The large capacity 500. I appreciate predicted hours for the opening of the café have been submitted but these are not enforceable as this addendum stipulates on p7 these may be subject to change. We are therefore essentially back to the description I have given above as a 50 or 500 capacity pub within the Special Stress Area depending on the events scheduled for that day.

The premises falls in Hanover and Elm Grove ward of the City, which according to our Public Health Framework for Assessing Alcohol Licensing (4th edition) is ranked the 4th worst ward out of 21 wards under the Health data for 'Increasing risk or higher risk drinking'.

I do not believe that the amended application or the conditions agreed in the addendum offer a clear vision of how this premises would operate on a day to day basis. I therefore request the panel examine this application to determine whether it should be granted or refused."

Questions to the Licensing Authority Officer

- 77.10 The Chair asked whether the conditions within the appendix implied that there would be a bar at the venue, – rather than waitress service, since the Cafe already employed barista for coffee. The Licensing Authority Officer confirmed that this could be tailored to suit the venue. The Chair then queried the large 500 people capacity of the venue and whether the police had requested that there should be waiter service and the Licensing Authority Officer answered that although she had not visited the venue, the service would be expected to be the same as a pub. The Chair then queried whether the hours requested should be kept for the café and the Police Licensing Officer replied that the hours stated were too loose at present and needed to be amended and the Chair stated that since there was no representative from Environmental Health at the panel, she would put her queries on the issues of noise and unloading directly to the Applicant instead.

Applicant

Representation from the Applicant: Sarah Davies, Gaby Gilmore and Richard Carter – all representing Phoenix Arts

- 77.11 The Applicant Sarah Davies confirmed that Phoenix Arts was a regulated Charity and existed to offer affordable studio space to freelance workers and to promote art to a wider audience with a rolling educational and exhibition programme. She confirmed that they had bought the building 25 years ago and that there were 120 artists who used the building and all had separate agreements with the charity. She also confirmed that they were active in the community and that Councillors Gibson and Daniel had worked with them to create a residents community association. She confirmed that they were in the second year of a business plan and since they own the building but have not regular source of funding, they need to generate income to maintain the huge building costs
- 77.12 Gaby Gilmore stated that she had been employed to manage the venue and realised one year ago that it could not progress without a licence. She confirmed that the venue had to try to communicate as much as possible with the council and police in order to consider the welfare of the public. She then confirmed that she wanted to discuss the following points with the panel: 1. Waiter service, which Richard Carter would discuss and 2. the Condition 6 – vertical drinking at music events, which they wanted to within the café area, which they wanted to discuss.
- 77.13 Richard Carter stated that the Café area was small with 18- 20 seats in area and 4 are on high stools and that they planned to add seating along corridor. He added that if they had to operate a waiter service it would only have a small operating area and they wanted the public to be able to walk into the gallery area with the possibility of holding their drink, so that they were looking for a compromise on this.
- 77.14 Gaby Gilmore stated that they would struggle to find staff regarding Condition no. 4 – since the DPS could nominate people, but all staff were stipulated to have a DPS. Richard Carter confirmed that he and Sarah Davie had a DPS, but that staff for events were transient and would make this condition difficult.
- 77.15 Gaby Gilmore also queried Condition 10 regarding security guards as they would like to request changing the need for security after 9 pm only. She then explained that their largest events were private views which took place every six weeks and ran from 6 – 8 pm in the corridor and main gallery and therefore they would only require security for the last hour, but would have to pay for a minimum 4 hours for a security guard and gave an example of recent private view for Northbrook which followed these timing. They felt a requirement for a security guard for 4 hours was therefore excessive.
- 77.16 Ms Gilmore also queried the detail in Condition 8 regarding CCTV for all public areas, since this would include workshop rooms, - part of the three exhibition areas and she was concerned that cctv would encroach on people's privacy, since these rooms were often used for life drawing classes and children's events and therefore wanted this issue to be discussed by the panel.

Discussion & Questions to the Applicants

There was a long discussion with members of the Panel and all the Applicants in order to clarify the different conditions and areas of the building to be included within the licence. The following seven points are a summary of the main points of the discussion:

- **Licensing Hours**

- 77.17 Ms Gilmore confirmed that the reason the venue wanted long licensing hours was to cover events such as art labs which were bi-monthly and went on later in the evening and that the venue wanted to continue doing more theatre or comedy nights in the future. She confirmed that since they wanted to do regular events with café events every Wednesday, they would soon exceed the number of TENS they were allowed.
- 77.17 Ms Davies confirmed that their events were artist events and not music events and therefore they would not require live music after 11pm, since it would be only music as part of an exhibition. The Police Licensing Officer & Licensing Officer also confirmed that the Applicant did not require a licence for live or recorded music in a venue for up to 500 people, since it was de-regulated up to 10 pm. Councillor Marsh pointed out that therefore the public would have to finish consuming alcohol at 10pm even if the event finished at 11pm and Sarah Davies agreed that it was fair to limit alcohol to finishing at 10 pm. The Chair stated that the 10pm finishing time for alcohol within the main licence would be fairest for the local community.
- 77.18 Ms Davies queried what type of licence was required for an internal Christmas party and the Police Licensing Officer said a TEN notice would suffice for this.

- **Areas within the Venue to be licenced**

- 77.19 Councillor Knight asked where in the venue the Arts Lab events would take place. Ms Gilmore replied that there would be different areas including the café / gallery area and the music would have a seated audience.
- 77.20 The Chair stated that this was complex and the Applicant appeared to want to licence a very large area, with 5 floors and suggested that the areas that they should cut down the area they want to serve alcohol so that CCTV would not be required in those rooms and that it was policy to request venues to have waitress service, otherwise it would be licensed and categorised as a pub venue.
- 77.21 Councillor Marsh raised the issue of using the fifteen TENS licenses allowed per year to vary the licence when required. The Applicant, Becky replied that they had experienced no previous problems with applying for TENS, but had to be selective of when they were used and they wanted to have events on a weekly basis from now on and that those requiring the sale of alcohol included: private views, artlabs, weekly artist led events. Councillor Marsh clarified the fact that they needed the licence changed to match a new business model now and the Applicant confirmed that this was true since they wanted to grow their business. The Chair confirmed that a full licence had to be enforceable with set space limits and limit the rooms they were requesting a licence for.

77.22 The Chair raised the issue that the sale of alcohol until 11pm for some kind of event would create noise disturbance in area due to post event deliveries and collections loading outside and stated that she did not think this condition was controlled enough

- **Type of events that the Venue will offer**

77.23 The Applicant represented by Sarah Davies and Ms Gilmore confirmed that events that the Venue would offer included: Art Labs which were bi-monthly and events / talks such as recent one with Henry Normal. The Chair asked whether there were music events planned and Ms Davies said there was sometimes music as part of an exhibition such as the Ed Briggs programme which started with 25 minutes of music then continued as a talk / exhibition event.

77.24 Councillor Marsh asked if it was possible to stop alcohol being sold at 10pm and after some discussion Ms Davies said that was probably a fair condition.

- **Security**

77.25 Councillor Knight queried the need for security from 9 pm and the Chair asked the Licensing Officer whether if the sale of alcohol stopped at 10 pm, then there would be a lower capacity of people and thus change the SIA – S Impact Area? The Licensing Officer confirmed that if the hours were reduced to 10pm then the conditions no.10 and no. 7 regarding the requirement for door persons on risk assessments could be dropped

- **Waitress service or Bar service for alcohol**

77.26 The Chair confirmed that in point no. 3 there should be waitress service within the café area and the Police Licensing Officer confirmed that he was confused about the service in the café. Ms Davies replied that the corridor was included as part of the café area and Ms Gilmore stated that since the café in the SSA was permitted to stay open until 11pm, they did not think there was a problem with this.

77.27 The Chair stated that the panel wanted to condition this license as an arts venue – not a pub and therefore asked about the North Road Mobile bar and at what times they were proposing to have this in operation? Ms Gilmore replied that they wanted to position this nearer the gallery. Councillor Knight suggested that the mobile bar could run from 5 – 10pm and Ms Gilmore replied that they were keen to ensure that it was run on normal café hours and wanted to avoid vertical drinking in this area. Councillor Marsh stated that if the café was open serving food then events should not take place in the café and a mobile bar could be used in space to serve drinks. The applicants handed out leaflets with picture of the venue to assist members of the panel and confirmed that the café seated 18 – 22 people and corridor seated 15 people. There was a long discussion about the areas in the café, the need to stipulate eating with drinking alcohol and various issues around the problem of licensing this area.

77.28 The applicant asked the panel for clarification that waitress service was defined as: a customer ordered alcohol, coffee or food at the bar and that any of these were then served to the customer at their table by staff. The panel confirmed that this was correct and the Applicant confirmed their acceptance of this.

77.29 The Applicant raised the area of the Green Room and the Chair confirmed that the Green Room was not included in the area until after 5pm.

- **Employment of staff with DPS requirement**

77.30 The applicant asked whether they could as a trained DPS on the premises, delegate the responsibility to someone else within the team. The Police Licensing Officer replied that the requirement was that someone on the premises must have a DPS licence and this would be required for a capacity of 200 people .

77.31 The Chair stated that regarding Condition 7, a TENS notice would be a better solution and therefore confirmed that Condition 7 would apply. The Chair also stated that regarding Condition 10 the first part should be deleted and the SIA registered should be employed on any occasion with a risk assessment required for larger events.

The Chair then requested a ten minute break in the proceedings for in order to talk with the Legal advisor and confirm a reasonable plan of action.

Further Questions to Applicant

77.24 The Police Licensing Officer asked the Applicant to clarify which events the Applicant envisaged unaccompanied children attending. Sarah Davies stated that they ran a family fun school for children and had a new safeguarding policy which included DBS trainers and that this would take place in training rooms that would not be licensed.

77.25 The Police Licensing Officer then asked about the condition of purchasing tickets as outlined in Condition 2 of the Addendum . Gaby confirmed that all events would be ticketed and that the public could buy a ticket on the door, if required.

77.26 The Licensing Authority Officer queried where the Licence boundary was within the the building plan map and the Applicant, Gaby drew this on the map and confirmed that the boundary from the Green to White areas was a lockable area.

SUMMARIES

77.27 The Licensing Officer Mark Savage Brookes summarised and stated the following:

“This is an application for a new premises licence for Phoenix Arts Association 10-14 Waterloo Place, Brighton.

The application proposes Plays, Exhibition of Film, Live Music, Recorded Music and Performance of Dance from 9am to midnight every day; and the sale of alcohol from midday to 11pm every day. Other timings have been canvassed and discussed during the course of this meeting.

Conditions were agreed with Environmental Protection and proposed by Sussex Police prior to the hearing and further conditions and control measures were also offered by

the applicant within their original application. Conditions have also been discussed during the course of this meeting.

Two relevant representations remain outstanding against this application and you have read these and heard from all parties present.

The premises sits within a special stress area which as stated in our Statement of Licensing Policy is deemed an area of special concern in terms of the levels of crime and disorder and nuisance experienced. The policy states that new applications for premises within the Special Stress Area will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas.

Licensing Guidance (9.38) states that: In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy

It is important to note that each application will be given individual consideration on its own merit.”

77.28 The Police Licensing Officer Mark Thorogood gave the following summary:

“The concerns from Sussex Police about this application was the capacity and the fact under the conditions being offered, it could easily hold alcohol led events. Due to the suggestions put forward and the agreement to certain conditions, the concerns we had have now been addressed. “

77.29 The Licensing Officer Becky Pratley gave the following brief summary:

“I acknowledge that the application now falls well within our SoLP, I therefore ask that the panel determine the outcome of this application.”

77.30 The Chair added that Condition 8 should be amended to read that loading should be done by 11pm, so that this did not affect residents.

Decision:

77.31 **RESOLVED** – The Panel’s decision was as follows:

“This is an application for the sale of alcohol and regulated entertainment within a café and event space on the ground floor of the premises. The premises is in the Special Stress Area (SSA) as detailed in the Statement of Licensing policy which is an area of concern to the licensing authority because of the relatively high levels of crime and

disorder and nuisance experienced within it. The original application has been amended to reduce the hours for sale of alcohol to 23:00 hours and confirm agreement to some of the conditions proposed by the police. Conditions had been agreed with the Environmental Protection Team.

Representations have been made by the licensing authority and the police. Concerns centred around the location of these premises which is in the SSA and in close proximity to the Level which is a very challenging area for policing. In addition the potential capacity of the premises of 500 persons attending events was of concern to the responsible authorities in the absence of robust conditions to address this.

The panel shared the concerns of the Responsible Authorities. We were keen to clarify with the Applicants how they intended to operate the premises and promote the licensing objectives. They stressed that they were a registered charity providing affordable studio space to artists and to promote art to a wider audience. There was a rolling programme of exhibitions and the applicants wished to extend and develop their events to include theatre and comedy and some music. The operation of the café area was clarified and conditions agreed in relation to this area. Further, to address concerns around capacity and CCTV, the applicants agreed to remove the White Room, Red Room and Blue Room from the application so that no alcohol could be sold or consumed in these areas. (A revised plan to be submitted). In response to concerns the applicants agreed to amend the times for sale of alcohol to 22:00 hours and closing time to 23:00 hours every day.

Therefore, upon the canvassing of, and agreement to a number of conditions which the panel believed would promote the licensing objectives, deal with the concerns raised and emphasise the non-alcohol led character of the activities, the panel have decided to grant this application with the following licensable activities and conditions to be attached to the licence:

1. Sale of alcohol to be from 12:00 to 22:00 hours every day save for the Green Room as shown on the plan where the hours will be 17:00 to 22:00 every day.
Regulated entertainment to 23:00 hours every day.
Closing time to be 23:00 hours every day.
2. The licensed café area (which includes the corridor area as shown on the plan) shall operate to the following times and conditions:
12:00 to 17:00 hours every day. During this time the sale of alcohol within the café area shall be by waiter/waitress service for consumption by persons seated at tables.
Substantial food shall be available at all times.

Alcohol shall not be sold in the Green room during these times.

When alcohol is sold in the café area after 17:00 the café condition will not apply and the area will be subject to the general conditions on the licence as a whole.

Amended Police conditions

1. Authorised staff employed by Sussex Police shall have free access to all parts of the licensed premises at all times licensable activity is taking place or when open to

members of the public, for the purpose of inspection to ensure compliance with the terms and conditions of the premises licence and to ensure the promotion of the licensing objectives.

2. Excluding the café area, alcohol will only be made available to persons attending a pre booked event and who are in possession of a valid ticket or listed on a guest list.
3. Whenever the premises is conducting the sale of alcohol for events for 200 persons or more then either the designated premises supervisor or another personal licence holder shall be present within the licensed premises.
4. A list of staff members who are authorised to sell alcohol on the premises shall be kept. This shall be endorsed by the DPS with the date such authorisation commences.
5. During the performance of live or recorded music, the sale of intoxicating liquor shall be for consumption by seated persons and there will be no vertical drinking, excluding carrying drinks purchased at the bar to seats. Exclusion to this is when background music or no music is being played and/or during an Art exhibition.
6. Celebratory events such as birthdays, weddings and seasonal events such as Christmas and New Year's Eve parties are not permitted under this licence.
7. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times. CCTV footage will be stored for a minimum of 31 days. The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.

The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.

Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.

Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.

In the event of the CCTV system hard drive being seized as evidence as part of a

criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

8. An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week. The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence. Any refusals made for alcohol service e.g. underage, will also be recorded (either in electronic or written form) and feedback given to staff as relevant. The log will be kept for a minimum of twenty four (24) months.
9. The premises will operate an age verification policy set at a minimum of 25 years (e.g. "Challenge 25") whereby any person attempting to buy alcohol who appears to be under the specified age e.g. 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.
10. Signage advertising the 'Challenge 25' policy will be displayed in prominent locations in the premises.
11. a) The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:
 - * The lawful selling of age restricted products
 - * Refusing the sale of alcohol to a person who is drunk
- b) Further verbal reinforcement/refreshers training covering the above will be carried out thereafter at intervals not to exceed 8 weeks, with the date and time of the verbal reinforcement/refreshers training documented.
- c) All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.
12. SIA registered door supervisors shall be employed on any occasion when a requirement is identified by the licence holder's written risk assessment or requested by Sussex Police in writing at least 48 hours in advance. The written risk assessment will be reviewed at least once every calendar year. The written risk assessment will take into account information or guidance offered by the police, and also taking into account busy periods such as Bank Holidays, Season Variations and other City

Centre Events e.g. Pride. The written risk assessment will be available on the premises for inspection by police and authorised officers of the Licensing Authority.

Conditions agreed with Environmental Protection Team:

1. Doors and windows will be kept closed while events are taking place. This will be supervised by Door staff and/or other staff as appropriate.
2. Door staff and/or other staff will make regular checks of the outside of the premises to ensure that sound levels do not impact on neighbouring properties.
3. The licensee must ensure that people on or leaving the premises including smokers, conduct themselves in an orderly manner at all times and do not in any way cause annoyance to residents and people passing by the premises. Appropriate signage to this effect to be displayed inside the premises.
4. Numbers of those smoking will be limited to 6 people at the public entrances which face the main road and managed by door staff and/or other staff.
5. No smoking is permitted at the back of the building nearest the residential area.
6. Deliveries and collections will be scheduled between 7am and 7pm.
7. Post event loading will be done carefully and quietly by 23:00 hours and supervised by Phoenix staff and managed in such a way as to minimise disruption.

There will also be attached to the licence such other conditions as appropriate from the applicants operating schedule where not superseded by the above conditions.

Overall the panel consider that the above conditions will ensure that the operation of the premises promotes the licensing objectives within this challenging area.”

The meeting concluded at 1.25pm

Signed

Chair

Dated this

day of