

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

10.00am 12 APRIL 2019

HOVE TOWN HALL ROOM G90

MINUTES

Present: Councillors: Page, Hyde & Gilbey

Officers: Mark Savage-Brookes – Licensing Officer

Reps: Councillor Deane, Roy Skam – NLCA and Sandy Crowhurst, NLCA, Clifford Jacques – resident

Others: The Applicant was represented by Chris Dummond – Good Things Brewing company and his business partner Tomas Samandi, 15 Vine St

PART ONE

97 TO APPOINT A CHAIR FOR THE MEETING

97.1 Councillor Hyde was appointed Chair for the meeting.

98 PROCEDURAL BUSINESS

98a Declaration of Substitutes

98.1 There were none.

98b Declarations of Interest

98.2 There were none.

98c 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.

98.3 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of Item 99.

99 15 VINE STREET LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

99.1 The Chair introduced the Panel

99.2 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.

Introduction from Licensing Officer

99.3 The Licensing Officer Mark Savage Brooks stated the following:

“This is an application for a new premises licence for 15 Vine Street, in Units 3-4 at 13-16 Vine Street, Brighton. The application proposes the supply of alcohol Sunday to Thursday between midday and 10.30pm and Friday and Saturday midday to 11.30pm. Alcohol consumption is applied for both on and off the premises. The applicant also applies for Late Night Refreshment on Friday and Saturday between 11pm and half past 11.

The proposed opening hours are from 9am every day, with closing Sunday to Thursday at 11pm and Friday and Saturday at midnight (giving a half hour drinking up time to the proposed alcohol sales times)

The licensing team received ten representations – one from a local councillor, one from a residents’ association and eight from separate local residents. Relevant concerns raised in representations were in relation to the licensing objectives the Prevention of Crime and Disorder and the Prevention of Public Nuisance And concerns were also raised in relation to the premises location within the Cumulative Impact Area.

The applicant and Sussex Police agreed a list of conditions to be added to a granted licence within the consultation period and these include the premises normally operating as a restaurant (p43 condition 2) and off sales being restricted to 12 times per year.

The representations and police agreement are contained within today’s papers at Appendix D, pages 29-42 (reps) and 43-45 (agreement)

As mentioned, this premises is situated in the city’s Cumulative Impact Area. The Special Policy for Cumulative Impact states that applications for new licences will be refused following relevant representations. The applicant can rebut this presumption of refusal if they can show that their application will have no negative cumulative impact on licensing objectives.

The Council’s Statement of Licensing Policy goes on to say that, this special policy is not absolute. Upon receipt of a relevant representation, the licensing authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy. If an application is unlikely to add to the Cumulative Impact of the Area, it may be granted. The onus is on the applicant to demonstrate exceptional circumstances and satisfy the Panel that they will not impact negatively on the CIZ.

The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant, theatre or live music venue (where alcohol is not the primary activity) may be considered exceptional circumstances. The fact that a premises will be/is exceptionally well managed with a well-qualified applicant, or that there are no residential premises nearby, will not be considered exceptional.

In light of there being an agreement of conditions reached, for complete clarity, if this application were granted, the conditions that would be applied to a Premises Licence would be all of those agreed with Sussex Police. I would also suggest that the panel note the operating schedule provided by the applicant at the time of applying for this licence (on page 19) as there may be some conditions stated that could also be applied to a granted licence. I can talk the panel through these if required.

The panel should also note that the applicant submitted two statements of supporting information in the consultation period, on 5th and 19th March, which can be seen in the papers on pages 25-27.

My final point is to remind the Panel that each application shall be given individual consideration on its own merits.”

The Agenda was circulated to the reps who stated they had not received a copy of it.

The Chair allowed time for the reps to read the reports.

Questions to the Licensing Officer

- 99.4 Roy Skam representing North Laines Community Association commented that the new link did not work with the new website and that the police info was not included.
- 99.5 Councillor Page asked if the premises had been licensed before and Licensing Officer replied that it had not.
- 99.6 Councillor Deane asked if the premises was a café or restaurant and the Licensing Officer confirmed it was a restaurant.
- 99.7 Roy Skam queried whether Licensing had visited the premises and confirmed the correct address since there had been some confusion on this. The Licensing Officer said there was no confusion and that no.s 13 – 16 was a row of motor garages and the premise address is correct and called 15 Vine Street.
- 99.8 Councillor Page began a further discussion on the correct address. He questioned whether from looking at the map, no. 15 was the premises Chin Chin, no.s 13 – 14 was an office for Rush and that next door to this should be no. 16, but it is labelled as 17 and that these were the 2 units discussed as the premises today.
- 99.9 Mr Clifford Jacques, resident asked about the police report regarding the wine and beer tasting events and the Licensing Officer and Chair agreed that this should be put to the Applicant later in the proceedings.

Representations from Responsible Authorities**Roy Skam – North Laines Community Association**

99.10 Mr Skam stated that residents were confused about this premises since it was within the CIZ zone. He stated that he was concerned that the police were not at this panel and that he wanted to put more questions to the Police on this matter, since the Matrix was a matter for discretion. He stated that the premises would bring more people into the area and thus causing more problems. He was concerned about the conditions attached to the licence which were set and then changed, citing those on page 43 of the Agenda. – especially those Conditions 2 & 3 – D and E.

Questions to the Responsible Authorities

99.11 The Chair if there were any questions.

99.12 The Applicant had none.

Representations from Residents

99.13 Sandy Crowhurst – North Laines Community Association stated the following:

- He confirmed the area had the highest number of alcohol related incidents in the city, which had been highlighted by police
- There are currently 75 licensed premises in the CIZ, and vandalism and crime at its highest. More than 30 licenses had been approved since 2011.
- Every fifth premises had a licence and it is a mixed use area.
- Noise levels in the area are unacceptable. – Residents were being disturbed at night with people having to sleep in their front room.
- The character of the area was being changed by the noise created by beer and wine deliveries
- He believed the area was saturated and felt it was unacceptable to have any further licensed premise .
- The NLCA has operated for over 40 years and now it believes the community should be brought back to what it was, including shutting off the area to traffic at weekends

Questions to the Residents' representative:

99.14 The Chair queried the weekend street closure for street parties on page 27. Mr Crowhurst replied that street parties were an annual event in the area and applied for road closure for these and that they did not sell alcohol at these events.

99.15 Clifford Jacques – resident stated the following:

- Recently, there had been a huge increase in Anti Social Behaviour – ASB and alcohol-related crime and vandalism in the 30 years he had been resident.

- The most common complaint in Vine St was that people urinated in doorways at night and that in this premises there was a lack of toilets with only 1 disabled toilet and 1 regular toilet for this bar which may accommodate 50 – 60 customers.
- The late night noise from this premises was a huge concern for residents since there are already 3 pubs to the north and several others at the other end of this street. The cumulative impact of this was gradually becoming intolerable.
- He felt that this premises was a pub masquerading as a restaurant, since the owners were Good Things Brewing - a brewery and that with this was the possibility of more people drinking in the street and an outlet for the brewery's beers.

Questions to the residents representative:

- 99.16 Councillor Gilbey stated that police should have removed any mention of off sales from the report. Mr Jacques replied that it was the cumulative impact of all the alcohol outlets that was concerning and that a 76th premises was not wanted in the area.
- 99.17 Cllr Page queried where on the map the Vine Club – a premises that he had mentioned was situated. Mr Jacques confirmed that it was situated on the same end of Vine St as the current premises – 15 Vine St. He stated that he assumed it was a members only bar and according to the matrix it should finish at midnight but there had been a party until 3am on one occasion. The Licensing Officer replied that he would look into this allegation, as this club had a website.

Representations on behalf of residents from Councillor Lizzie Deane

- 99.18 Councillor Deane gave a representation on behalf of residents and highlighted the following points:
- There is a great accumulation of different bars and premises in the area which is a residential street.
 - Previously premises which had been used for different purposes such as garages were now becoming bars and restaurants, eroding ordinary life for residents.
 - She confirmed that Offsales should definitely not be allowed.
 - She confirmed that she had at least 8 residents writing who directly opposed this licensing application.
 - Whilst there may be some support from local businesses, she stated that those people did not have to withstand the evenings of loud noise and ASB that alcohol-led premises in the area seemed to entail.
 - She confirmed whether Cllr Gilbey could advise residents regarding road closure and planning issues and whether these should be tackled with TENs notices.
 - She queried the chef mentioned by the applicant and wondered if this was a shorter term booking or a person with a vested interest in the company.
 - She queried whether it was really a gastro pub rather than a restaurant and wanted the layout of tables and drinking in the street clarified.

Questions to the Councillor Lizzie Deane:

99.19 The applicant, Chris Drummond queried whether the loud noise was coming from a different premises in the area, such as Chin Chin. Councillor Deane asked Mr Jacques, resident to answer. Mr Jacques stated that there were 3 pubs that had been there for over 30 years and were established and that the noise problem had increased due to other venues. Mr Skam stated that the pubs had toilets and the ratio to customers was preferable to the current applicant's premises.

Applicant

99.20 Chris Drummond – Good Things Brewing Company spoke in support of the application and made the following points:

- Originally the application was for a café bar but it was now for a restaurant – with no alcohol sold to customers unless they were eating. It was planned to be high quality food venue and had already been talked about within the local restaurant community.
- It was important to have a chef who could deliver something different and he would become a shareholder if the licence was granted.
- He admitted he owned a brewery but was happy to remove Off Sales as he understood the concern about this.
- The premises would not be a venue for The Great Escape music festival, although they had been asked.
- He confirmed he was not connected to the upstairs premise – which had been rented out separately by the building's owner.
- He had noted the concerns regarding noise and ventilation in the building. He confirmed there would be digital noise readers installed and that this would be monitored to keep noise at an acceptable level.
- He wanted to assist the local community and not create any negative impact on it.
- He was happy to answer questions on Conditions 2,3 & 4 and C and D, which were tasting events and he would be happy to remove these if required.
- The maximum number was 35 with all seated and this may decrease.
- He confirmed there was one toilet that was accessible to all

Questions to applicant

99.21 The Applicant gave the following answers to a number of questions asked by the Panel:

- The applicant was happy to confirm the maximum cover of 35 people seated as a pre- application condition.
- The applicant was happy to remove all conditions for Offsales of alcohol.
- All wine and beer tasting events and all ticketed events would also be removed.
- He summarised how the area with stools that appeared to be a bar would operate: Customers would eat meals at stools and there would be no alcohol bought without the purchase of food.

- He confirmed that regarding the window / doors, during the day they would be open but after 7pm would be closed in order to prevent noise disturbance to neighbours. They were happy for this to be conditioned within the licence.
- He felt that 1 toilet was sufficient for this 35 cover capacity.
- Councillor Gilbey queried whether there was space for wheelchair access in the restaurant and the Applicant said that no plans were currently fixed and that they could cater for different types of access.
- Councillor Gilbey asked whether they would require a Late night Refreshments clause for serving between 11pm – 11.30 pm and the Legal Advisor replied that they would require this for selling hot food at this time.
- The Applicant confirmed that the premises did not have an exterior area for smokers and that smoke coming from the street may be a concern.
- Councillor Gilbey queried whether a vent was required and the Licensing Officer replied that planning permission may be required for a vent to be installed.
- The Applicant confirmed that he had previously run a Café Bar called Plenty in Preston Circus, which was no longer running.
- Roy Skam - NLCA queried whether any neighbours had contacted the Applicant in support of the application and the Applicant answered that they had no written evidence of this.
- Roy Skam – NLCA queried why the applicant had been quoted in an email that the premises had to sell alcohol to remain viable and the Applicant replied that he confirmed that this was true since it helped to keep staff employed.
- Roy Skam - NLCA asked whether the premises could sell alcohol all day and the Applicant replied that it could only do this from 12 noon.
- Roy Skam – NLCA asked if they were providing evidence on what their high end menus would consist of and the Legal Advisor replied that this was not relevant and the Licensing Officer replied that Licensing would visit and the applicant would have to meet their standards.
- Roy Skam - NLCA queried paragraphs 7-8 of the email regarding the talk and learning for all and the Applicant replied that this had been removed and that they were applying for a full restaurant licence.
- The Legal Advisor confirmed that Paragraphs 3 and 4 would also be removed.
- Sandy Crowhurst – NLCA asked whether the Applicant planned to host stag or hen parties since the rear of the property backed on to Robert Street and the Applicant replied that it was not in their remit.
- Clifford Jacques, resident queried the link between LTC Ltd and the Good Things Brewing companies and the Applicant replied that he owned both LTC and also the premises 15 Vine Street, which was named before they took it over.
- Clifford Jacques queried the High end end of the market that the restaurant aimed for and the Applicant replied that neighbouring restaurant Chin Chin was high end and had recently won the Best Restaurant in Brighton award and that they too had garage doors within its premises and the smokers had to go out onto the street to smoke.
- The Applicant confirmed that the premises would have a ventilation and extraction fan installed. When asked about where the fumes would go, he replied that it would go into the garden in Robert Street in the same manner as the Chin Chin restaurant. The Licensing Officer stated that planning permission would have to confirm this and agree certain criteria.

- David Spifford asked if the applicant would have grandfather rights for premises ie be able to pass the licence on to another future owner. The Licensing Officer replied that there was a transferring process and the Legal Advisor replied that this had to be an agreed designated person.

SUMMARIES

99.22 The Licensing Officer summarised and wanted to highlight the following extra conditions:

- Condition B - page19 – regarding alcohol storage areas - should be a relevant condition
- Condition on page 21 was important that children would need to vacate the premises by 9pm.
- Capacity would be capped to 35
- Condition D on page 20 regarding recorded music originally now should be monitored by staff and noise from outside from smokers should be monitored

Summaries from residents Representatives

99.23 Councillor Deane stated that she wanted to remind the panel that she had received 8 representations from local residents opposing this application and that this was a residential street.

99.24 Roy Skam summarised that he felt that the Applicant had not given enough evidence to counter the fears from residents on noise and ASB.

99.25 Sandy Crowhurst highlighted the cumulative impact of the area, that this application added to. He confirmed the problems of additional noise from deliveries and rubbish clearance and its effect on the local community. He confirmed that last summer was very hot and the condition to have doors closed by 8pm was vital, should it be accepted.

Applicant – Summary

99.26 The Applicants Chris Drummond – Good Things Brewing Company and Tomas Samandi summarised their plan for the venue to have a star chef and a change of license with the following points:

- They wanted to work with the local community
- They would limit the capacity to 35 covers and for the doors to the street to be closed after 8pm. These were the tri-folding doors which opened up the whole restaurant onto the street.

Decision:

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

This is an application for a new premises licence within the Cumulative Impact Zone (CIZ) and therefore subject to the special policy on cumulative impact as set out in the Statement of Licensing Policy.

Our policy states that applications for new premises licences will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative cumulative impact. The special policy will only be overridden in exceptional circumstances. However, the policy is not absolute and both the policy and matrix approach indicates that a small restaurant within certain hours may be unlikely to add to cumulative impact in the area and therefore be exceptional.

Representations were received from 9 local residents and a local Councillor. Concerns were expressed about the nature of the application, the location of the premises in a largely residential street, and cumulative impact in an area already saturated with licensed premises.

This application has evolved and changed substantially from that first submitted. A set of conditions has been agreed with the police to make the application largely that of a restaurant. At the hearing the applicant further stressed the food led nature of the premises and agreed that he would remove all the tasting events and thus off sales from the application completely. He would also agree to a condition that there would be a maximum of 35 people seated at the premises, and one for the doors (if opened) to be closed after a certain time.

The panel has considered the application carefully within the context of our policy and the representations received. The panel considers that the amendments and concessions made to the application have gone a long way to meeting many of the concerns expressed in the representations. The application is now for a small restaurant and as such it is a type of premises recognised in our licensing policy as unlikely to add to cumulative impact and thus an exception to the policy. The panel was impressed with the attitude of the applicant towards promoting the licensing objectives, working with the local community and the policy concerns. The panel has therefore decided to grant the application with the following additional and amended conditions to be attached to the licence which will in our view promote the licensing objectives:

- 1. There will be no more than 35 seated customers in the premises at any time.*
- 2. The tri-folding doors at the front of the premises (if opened) are to be closed by 20:00 hours.*

The conditions agreed with the police are to be amended as follows:

Condition 2: *Alcohol will be served by waiter/waitress service to persons seated at tables and ancillary to a substantial table meal only. There will be no vertical drinking.*

Condition 3: *There will be no off-sales of alcohol.*

Condition 4 to be deleted.

