

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

10.00am 29 APRIL 2019

ROOM G90, HOVE TOWN HALL

MINUTES

Present: Councillor ; Cattell, Marsh and O'Quinn

Officers: Sarah Cornell (Licensing Officer), Rebecca Siddell (Lawyer), Mark Thorogood (Sussex Police), Emma Bullen (Licensing Authority), Gregory Weaver (Democratic Services Officer)

PART ONE

95 TO APPOINT A CHAIR FOR THE MEETING

Councillor O'Quinn was appointed Chair for the meeting.

96 PROCEDURAL BUSINESS

2a Declaration of Substitutes

There were none.

2b Declarations of Interest

There were none.

2c Exclusion of the Press and Public

In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

RESOLVED - That the press and public be not excluded from the meeting during consideration of Item 97.

97 JOE'S BURGER HOUSE LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

97.1 The Panel considered a report of the Executive Director of Neighbourhoods, Communities & Housing in relation to an application for a New Premises Licence under the Licensing Act for Joe's Burger House, 20A, Church Road, Hove, BN32FN. The applicant, Ash Zamani and his cousin, Sean Knight were in attendance. Attending to make representations was Mark Thorogood, Sussex Police and Emma Bullen, Licensing Authority Officer.

Introduction from the Licensing Officer

97.2 The Licensing Officer addressed the panel and stated the following:

- This was an application for a new premises licence for Joe's Burger House. The applicant had applied for the provision of late-night refreshment from Sunday - Thursday midnight and Friday – Saturday until 2am.
- Representations were received from Sussex Police and the Licensing Authority, on the grounds of the Prevention of Crime & Disorder, the Prevention of Public Nuisance and Public Safety. *(page 23 of the agenda)*
- The premises sat within a Special Stress Area which, as stated in the Statement of Licensing Policy 3.2.1 was an area of special concern in terms of the levels of crime and disorder and public nuisance experienced within.
- 3.2.2 New and varied applications or premises in SSAs would not be subject to the presumption of refusal, but operators would be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operations would not add to the problems faced in these areas. Appendix A of the SOLP set out a list of potential measures the licensing authority considered may be appropriate. These were more or less appropriate depending on the style of the operation applied for. These measures could be found in the papers on page 16.
- The adoption of the Matrix approach to licensing decisions found in the statement of licensing policy and this agenda on page 10 included a table with provisions for a terminal hour for all classes of licence premises in a particular area, recognising the diverse operations and different risks presented by those premises. The matrix stated Late night refreshment premises should only be granted in the Special Stress Area until midnight.
- However the policy was not absolute and each application must be given individual consideration on its own merits.

Questions to the Licensing Officer

97.3 There were none.

Representation from Sussex Police

97.4 Mark Thorogood addressed the panel and stated the following:

- This was an application for a new late-night refreshments licence within the Special Stress Area as defined by the Brighton and Hove City Council Statement of Licensing Policy 2019 for a burger and chips takeaway. The application was asking to open for late night refreshments at the premises on a Friday and Saturday between Midnight and 0200 hours of which there was concern.
- On considering the application alongside the licensing decision matrix on page 10 of the agenda pack, the application fell outside the timings for licensable activity normally accepted within the Special Stress Area of which it was recommended midnight as the termination hour for late night takeaways.
- Of note the location of this premises on Church Road Hove was recently included within the Special Stress area following a policy review. It was felt that with the increase of licensed premises within this area was causing concern in relation to a rise in crime and disorder and public nuisance.
- Sussex Police noted that Church Road, while being a parade of shops, was heavily residentially populated with flats and houses around the premises. With the late hours at the weekend being applied for, this could have disturbed the residents thus becoming a nuisance due to people coming and going in to the early hours. The high probability that customers would be intoxicated would only add to this and could increase the risk of anti-social behaviour and crime and disorder.
- With a number of licensed premises serving alcohol within the locality, Sussex Police saw a high volume of anti-social behaviour in this area. This was proven by the call handling centre receiving over 80 calls since the 1st March 2019 reporting incidents within this locality. The incident types reported varied from assaults and thefts with a high number of ASB linked issues. This was further proved when reviewing the Public Health Framework for assessing Alcohol Licensing 2019, Central Hove of which this premises fell under, was ranked 4th out of 21 Wards for police recorded alcohol related incidents. Although this premises was not requesting alcohol, by staying open late it would slow down dispersal within the area which was not ideal.
- Although it was not policy to do so, the applicant did not seek consultation with Sussex Police prior to submitting their application. Had they done so, Sussex Police would have raised their concerns. Once Sussex Police received the application, Sussex Police emailed the applicant asking them to consider pulling back the weekend hours but this was declined. On page 19 & 20 of the agenda, there were no firm conditions offered to assist in promoting the Licensing Objectives however they had since offered CCTV and SIA if it was a requirement to obtain a late licence.
- Although Sussex Police were unable to support this request for 02:00 close at the weekend, if the panel decided to grant the licence, Sussex Police had a number of conditions to be considered.
- Ultimately this application fell outside the matrix and it was for the applicant to demonstrate how their application would have no negative cumulative impact and the steps they would take to mitigate risk. At this current time, Sussex Police did not feel the applicant had achieved this which was why Sussex Police submitted their representation so that it could be fully scrutinised before the panel.

Questions to Sussex Police

97.5 In response to Councillor Marsh, Mark Thorogood stated the following:

- Condition 3 was to force SIA attendance if operating to 2am
- If the licence was to be till 4am then all conditions would need to be met, if this was pulled back then condition 3 could be removed.

Representation from Licensing Authority

97.6 Emma Bullen, Licensing Authority Officer, addressed the panel and stated the following:

- This was a representation against a new application for the sale of hot food after 11:00pm at Joe's Burger House, 20A Church Road. The proposed opening hours were Sunday to Thursday 23:00-00:00 and Friday and Saturday until 2:00. The grounds for this representation were that it was contrary to the Council's Statement of Licensing Policy as the premises fell within the Licensing Authority Special Stress Area and that it may undermine the Licensing objectives of Prevention of Crime and Disorder and the prevention of public nuisance.
- The adoption of the Matrix approach to licensing decisions found in the Statement of Licensing Policy included a table with provisions for a terminal hour for all classes of license premises in a particular area, recognised the diverse operations and different risks and presented by those premises.
- 20A Church Road, fell within the Special Stress Area, the matrix would consider LNR in the SSA until midnight favourably.
- The panel needed to consider the circumstances the case and whether there were exceptional circumstances to justify departing from the policy in the light of the individual circumstances of the case.

Questions to Licensing Authority

97.7 In response to Councillor Marsh, the Licensing Authority Officer confirmed that in regards to Sussex Police's conditions, if minded to grant the Licensing Authority would be satisfied.

Representation from the Applicant

97.8 The Applicant, Ash Zamani and his cousin Shaun Knight addressed the panel and stated the following:

- CCTV was already going to be implemented and that the applicant was willing to meet various conditions such as including a door supervisor.
- There were further plans to provide signage with an effort to reduce public nuisance.
- There would be no smoking on the forecourt.
- The reason for the application was to meet greater demand at this time in the evening.
- There was a further proposal to have no seating outside the takeaway.

Questions to Applicant

97.9 In response to Councillor O'Quinn the applicant stated the following:

- Fast food was good at the times discussed however the applicant further wanted to capitalise on the extra business traffic that flowed from people leaving bars in the areas nearby.

97.10 In response to Councillor Cattell the applicant stated the following:

- It was agreed that chairs and tables would be brought in for 10pm.

97.11 In response to Councillor Marsh the applicant stated the following:

- The venue's closing time was currently 11pm. It was clarified that this meant no service from this point on with Deliveroo. It was further clarified that the applicant had not been aware of the recent expansion of the Special Stress Area however further affirmed their wish for a 2am licence. It was noted that considerable investment was proposed to be put towards the enterprise following the granting of licence.

97.12 In response to Mark Thorogood, Sussex Police, the applicant stated the following:

- Only Deliveroo were employed and not Just Eat, it was noted that due to the low volume of orders this wasn't disruptive.
- The applicant confirmed willingness to compromise in order to attain the licence for 2am.

Summaries

97.13 The Licensing Officer gave the following summary:

- This was an application for a new premises for Joe's Burger House. The applicant had applied for the provision of late night refreshments from Sunday to Thursday until midnight and Friday to Saturday until 2am and people present had heard from all parties. Conditions had been heard proposed by the Police should the panel be minded to grant the application and the amended hours should the panel be minded to grant the application for lesser hours. The bringing in of tables & chairs from 10pm from outside was also canvassed.
- Licensing Guidance stated that in determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority had to give appropriate weight to:
 - The steps that were appropriate to promote the licensing objectives;
 - The representations (including supporting information) presented by all parties;
 - The Guidance;
 - Its own statement of licensing policy
- It was important to note that each application would be given individual consideration on its own merits.

- After considering all the relevant issues, the licensing authority could grant the application subject to such conditions that were consistent with the operating schedule.
- If the Panel decided to grant the application then any conditions added to the licence to meet the Licensing Objectives had to be clear, precise and enforceable.
- Alternatively, the licensing authority may refuse the application on the grounds that this was appropriate for the promotion of the licensing objectives.

97.14 Mark Thorogood, Sussex Police noted that the reason for bringing the representation was due to this being within the new Special Stress Area.

97.15 Emma Bullen, Licensing Authority, had no further statement.

97.16 **RESOLVED** – The Panel's decision was as follows:

The panel has read all the papers and considered the representations and submissions made at the hearing.

The application is within the Special Stress Area (SSA) as defined 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 with in it.

The application is for a small burger takeaway premises with late night refreshment from 23:00 to midnight Sunday to Thursday and 23:00 to 02:00 Friday and Saturday. Relevant representations were received from Sussex Police and the Licensing Authority which draw attention to the Matrix approach for decision making within our policy in which hours for late night takeaways in the SSA are proposed to midnight. Concerns are expressed about the extension of hours on Friday and Saturday night in this area.

The applicant wishes to open later in order to satisfy customer demand. They are willing to agree to a number of conditions which have been proposed by the police in order to mitigate the risk of later opening. These include CCTV and a door supervisor at the premises on Friday and Saturday nights.

The panel are mindful of the need to consider each application on its individual merits. Upon questioning the applicant the panel were impressed with the responsible attitude shown and appreciation of the need to ensure promotion of the licensing objectives. The applicant was willing to agree to some further conditions and measures to promote the prevention of public nuisance objective. The panel are very aware that the application is within the special stress area. However there is no alcohol involved here and the applicants have gone a long way towards meeting the requirements of the responsible authorities and the panel believe that with the robust conditions attached to the licence the application will operate to promote the licensing objectives. The application is therefore granted with the four conditions agreed with the police and the following additional conditions:

1. There will be no customers sitting at tables and chairs outside the premises after 22:00 hours every day.
2. No food deliveries are to take place via a company or otherwise after midnight on Friday and Saturday, and there will be no food deliveries from the premises from Sunday to Thursday after 23:00 hours.

3. The licence holder will display prominent notices in the premises reminding customers to respect local residents, keep noise down and leave quietly.

The meeting concluded at 10:50am

Signed

Chair

Dated this

day of