

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

**10.00am 25 JANUARY 2024**

**VIRTUAL**

# **DECISION LIST**

## **Part One**

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### **3 THE MONA LISA LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)**

*Contact Officer:* Corinne Hardcastle      *Tel:* 0127329  
*Ward Affected:* Kemptown

#### **Licensing Panel (Licensing Act 2003 Functions) - Notification of the Determination of Panel.**

**Licensing panel hearing held on Thursday 25<sup>th</sup> January 2024 virtually via Teams in respect of the application for a variation of a premises licence in respect of premises known as Mona Lisa, 89 St James's Street, Brighton, BN2 1TP.**

The Panel has considered all the papers including the report and relevant representations and listened to the submissions made today. The application is situated within the cumulative impact zone (CIZ). Our policy states that applications for variations which are likely to add to the existing cumulative impact 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.

This special policy can only be overridden in exceptional circumstances. However, the policy is not absolute. The panel must consider the individual circumstances and merits of the application. If an application is unlikely to add to the cumulative impact of the area, it may be granted.

The application seeks to add sale of alcohol on the premises to the existing late night refreshment activity from 12:00 to 00:00 every day. Two representations against the application have been made by the police, and licensing authority. The representations had concerns regarding the prevention of crime and disorder, public nuisance and cumulative impact.

The police were concerned about the location of the premises in the CIZ and St James's street in particular which has a problem profile and high levels of crime and disorder. Split licence venues can also cause people confusion and create

problems in managing the change from restaurant to late night takeaway. Their concern was furthered by a history of the premises breaching their current licence on two occasions, on 1<sup>st</sup> January 2024 and during Pride 2022. The conditions offered, while welcomed, did not go far enough and did not address the policy concerns.

The licensing authority also had concerns about the location of the premises within the CIZ and explained the breach of the licence during Pride 2022 when the premises was open and trading when the licence had been suspended due to non-payment of fees and had not been transferred. Due to the previous breaches the licensing authority did not have confidence in the applicant to operate this type of licence and comply with conditions.

Both responsible authorities recommended refusal of the application. The applicant was not present at the hearing and his agent Deyra Teke spoke on his behalf in support of the application. There had been consultation with the licensing authority and conditions proposed. The applicant was aware of the concerns regarding location and in terms of the split licence, the alcohol would not be on display and only for on sales only visible to those who were seated. The applicant was willing to take on board changes and conditions such as no sale of alcohol to the outside seating area. The sale of alcohol would end when the restaurant closed each day. In terms of previous breaches there was some misunderstanding about the completion of the transfer application and the breach on 1<sup>st</sup> January was explained as being 15 minutes over for a special customer. Staff training would reinforce conditions.

The panel asked detailed questions of the agent in order to try and clarify and confirm the manner in which it was intended that the business would operate around its limited space and staff as well as the visibility of both the outside and inside seating area.

The panel has considered this application on its individual merits and is mindful of the location within a particularly challenging part of the CIZ. The panel was concerned that the application was not well enough thought out in the context of the location and our policy. The panel regretted that the applicant was not present at the hearing which was not helpful. The agent had answered questions in an open and honest manner, but the panel felt that there was insufficient assurance given about how to manage potential incidents and the challenges of a split licence of this nature.

The panel shared the police concerns in this respect. Furthermore, it was considered that there were not enough measures to mitigate the real risk in this location. There was also concern about limited visibility within the premises. The previous breaches, though not the overriding consideration, also did not give the panel confidence that the applicant would abide by the conditions and terms of the licence and shared the police and licensing authority concerns in this respect. Overall, the panel considered that granting the application as it stood would be likely to add to problems of cumulative impact and undermine the licensing objectives. The application was therefore refused.

The minutes of the panel will be available on the Council's web-site under the rubric 'Council and Democracy'.

### Appeal Rights

(Section 181 and schedule 5 of the Licensing Act 2003)

1. The applicant may appeal against the decision to reject the application.

All appeals must be made to Magistrate's Court, Edward Street, Brighton, within 21 days of deemed delivery of this letter. A fee is payable on the lodging of an appeal. Delivery will be deemed to have been effected on the second working day after posting.