

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

10.00am 18 JANUARY 2024

VIRTUAL

DECISION LIST

Part One

3 ONE UNDER LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

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

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

Licensing panel hearing held virtually via Teams on Thursday 18th January 2024 in respect of the application for a premises licence in respect of premises known as One Under, Unit 3, the Savoy Centre, 10 Pool Valley, Brighton, BN1 1NJ

The Panel has read all the papers including the report, relevant representations and supplementary documentation from the applicant and has listened carefully to all the submissions made at the hearing. The panel has also considered the council's Statement of Licensing Policy (SOLP) and the statutory guidance.

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 unless the applicant has demonstrated 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. 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 in the light of the individual circumstances of the case. If an application is unlikely to add to the cumulative impact of an area, it may be granted. 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. A matrix approach has also been adopted in the policy which indicates that a non-alcohol lead premises may be given favourable consideration, but that a pub or night club would not be supported, subject to the special policy.

The application from Jungle Rumble (Brighton) Ltd is for an indoor golf centre and cafe bar with sale of alcohol and regulated entertainment from 10:00 to 02:00 hours every day. There are special circumstances in relation to the application in that a 'shadow licence' for the same unit 3 premises is in existence with licensable activities to 03:00 hours with comprehensive conditions attached.

Five representations in relation to the application were received from the Police, Licensing Authority and local residents. They expressed concerns about cumulative impact and negative impact upon the licensing objectives. The police and applicant have worked together and agreed a set of conditions and amendments to the original proposal. These have been sent to the parties just prior to the hearing as there was very recent agreement regarding provision of 2 door staff Fridays and Saturdays, and live music. Although these conditions mitigate risk, the police remain concerned about the late hours applied for in the context of this challenging location which is already saturated with licenced premises and suffers from high crime and disorder and anti-social behaviour. There are similar indoor golf premises at other locations within the UK but they mostly operate to earlier hours, the latest one being in Glasgow to 01:00 hours. They suggest further amendments may be appropriate and stress that the burden is on the applicant to demonstrate that they would not add to negative cumulative impact. Similarly, the Licensing Authority acknowledge the engagement with the applicant but have concerns about cumulative impact and the hours applied for.

The local residents all live in Clarendon Mansions which is adjacent to the proposed premises. They all suffered from noise breakout and people noise from the licensed premises surrounding them which has a detrimental impact on their lives. They are very concerned about the application and the negative cumulative effect it may have as well as direct public nuisance and sound leakage from the premises due to poor sound proofing, and also bottle disposals. They have in the past had issues with noise from previous premises at this location. They ask that earlier hours are considered.

The applicants were represented by their solicitor Christopher Rees-Gay and in attendance also was the manager and proposed DPS Craig Darby. Mr Rees-Gay highlighted the style, and operation of the premises whose primary activity would be golf with ancillary bar facilities. 80% of customers would be pre-booked. Rather than relying on the shadow licence they were seeking a bespoke licence to reflect their proposed activity. He highlighted the conditions agreed with the police which reinforced the style of operation as an indoor golf centre. This was, he maintained, not alcohol lead, contributed to a diversity of premises and as such along with meeting requirements of the police should

constitute an exception to the policy. The applicants had a good track record and had not been reviewed or had any licence revoked.

The panel was able to ask questions about all aspects of the proposed operation as were the other parties. The exclusion of live music from the licence as well as shorter hours was canvassed in particular. Upon taking instructions the solicitor was able to agree removal of live music and an hour earlier closing during the week with last entry 30 minutes earlier and alcohol sales to cease 15 minutes earlier. They wished to keep 02:00 hours on Friday and Saturday as there would be demand then. A sound limiter was accepted as per the agreement with Environmental Protection. It was agreed that bottles would not be disposed of or collected between the hours of 21:00 and 08:00. Mr Darby stated that some sound proofing of walls and floors had taken place. He was happy for his contact details to be given to the residents.

The panel has considered this application on its individual merits. The panel is very mindful of the location of these premises within the CIZ and the policy considerations. The panel has heard the evidence from the police about the high levels of crime and disorder in the vicinity of the premises and the concerns about cumulative impact. It has heard the evidence from local residents about the impact of licensed premises on their lives already in this saturated area and the likely impact of this premises. The panel shares these concerns and believes they are compelling. However, the panel agrees that there that there are special circumstances in relation to this application. There is a later shadow licence in theory capable of being operated although it is likely a variation application would

be necessary. The panel also agree that the style and nature of the intended operation is different

and capable of being considered non-alcohol lead. The applicant and legal team have also worked well with the responsible authorities to agree a set of robust and tailored conditions which reinforce the style of operation of these premises and further concessions have been agreed at the hearing. The panel remain concerned about the late hours and the impact of those on the area and adjacent local residents especially noise of people entering and leaving the premises. Although some concession has been made by the applicant the panel does not consider it goes far enough to deal with the concerns raised or mitigate risk.

The panel therefore considers it is appropriate to grant the application but with the following timings: licensable activities (as agreed with the police and not including live music or off sales) and (opening) and closing times: Sunday to Thursday 10:00 hours to 00:00 (midnight); Friday and Saturday 10:00 hours to 01:00 hours. There shall be a last entry policy 30 minutes prior to cessation of licensable activities and closing time. The final version of the conditions agreed with the police will attach to the licence, as well as those not superseded from the operating schedule and the following conditions proposed and agreed during the hearing:

- The premises licence holder will ensure that there will be no disposal or collection of bottles between the hours of 21:00 and 08:00.
- The premises manager and DPS will ensure that local residents in

Clarendon Mansions are provided with relevant up to date contact details.

- A sound limiting device shall be installed at the premises and maintained in good working order at the level agreed upon with the relevant Council officers.

The panel considers that the application as amended and with all the conditions attached is not likely to add to negative cumulative impact and has some exceptional features.

Appeal Rights

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

1. The applicant may appeal against the decision to impose conditions on the licence.
2. A person who has made a relevant representation may appeal against the decision to grant the licence or against the decision to impose conditions.

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

a) FIELD_TITLE