

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

10.00am 4 APRIL 2024

VIRTUAL

DECISION LIST

Part One

3 BEAK MRKT LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

Contact Officer: Corinne Hardcastle *Tel:* 0127329
Ward Affected: West Hill & North Laine

Licensing panel hearing held virtually via Teams on Thursday 4th April 2024 in respect of the application for a premises licence in respect of premises known as Beak Market, 47 Trafalgar Street, Brighton BN1 4ED

The Panel has read all the papers including the report and relevant representations, further submission by the applicants, and potential conditions, and has listened to all the submissions made today.

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.

The application is for a street food market with food from independent businesses and selling locally produced ales and low intervention wine. Hours for sale of alcohol are proposed every day from 09:00 to 23:00 on and off the

premises. Since the application was submitted the applicant has liaised with the police and agreed to a set of conditions to be applied to the licence. These include that the only sales of beer, lager and cider permitted under the licence is that produced from a craft brewery, and Cafe style conditions. The applicant has also submitted a detailed explanatory document explaining the nature of the application and style of operation proposed.

Five representations were received. They were received from Sussex Police, The Licensing Authority and local residents. Three further supporting representations were also received from local residents and local businesses.

The representation from the police acknowledged that the applicant had worked closely with them and considered that the conditions agreed went some way to mitigating risk in this area but wanted the panel to refuse the off-sales aspect and consider the terminal hour. The licensing authority had concerns about the application in terms of the special policy and the Matrix approach wherein a cafe in the CIZ should close at 10pm and considered it was appropriate for the panel to scrutinise the application. One of the local residents spoke to his representation and highlighted the saturation of licensed premises in the immediate area and the issues this caused. He believed this application could only add to the problems already in the area and that it was not exceptional.

The applicant Mr Tapper stressed the food led aspect of the application and the link with Beak Brewery. The warehouse was currently derelict, and their proposed use of the space would be a positive benefit to the community. There would be 4 rent free kitchens occupying with a coffee concession and bakery 97% of the space with just 3% for sale of craft beers mainly from the Beak Brewery and limited wines. Comprehensive conditions were offered and an acoustic report commissioned. They did request limited off sales and would be willing to limit these further by way of conditions.

The panel is mindful of the location of the premises in the CIZ and of the concerns raised. All parties were able to question the applicant about the application and nature of their proposed operation and canvass further conditions. The operation did not fit neatly within a category of the Matrix for decision making. Asked why a restaurant would not be more appropriate (which could sell alcohol to midnight), the applicant said this would detract from the ethos of a street food operation which was more flexible than a formal restaurant and had a different feel. To the panel the business proposed fell somewhere between a cafe and a restaurant. It was stated that 95% of the beer sold would be produced by the Beak Brewery. There was no outside area and the noise report stated there would be no negative impact and some acoustic work to the roof would take place. In terms of off sales, they could be restricted to 8pm and only craft beers could be sold.

The panel considers that this application has lots of features which set it apart from others and could be considered exceptional in order to justify a small departure from the policy. These were set out in the supporting document and emphasised at the hearing. The kitchen spaces would be rent free, the space in general would be available to community interest groups for free. The majority of

the alcohol to be sold would be from the Beak craft brewery. This was likely to attract a different type of clientele. The closing time was between that of a cafe in the CIZ and a restaurant. In terms of off sales, the panel noted the police concerns but considered that a limited permission was appropriate and would be unlikely to give rise to problems.

The panel is therefore granting this application with all the agreed conditions with the police to go onto the licence, including those appropriate ones from the operating schedule. In terms of off sales these would end at 20:30 each day and be limited to the sale of beer produced from a craft brewery. The panel considers that the nature of the operation with all the robust conditions attached is not likely to add to cumulative impact and will promote the licensing objectives.

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

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