

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

**1.30pm 23 APRIL 2024**

**VIRTUAL**

# **DECISION LIST**

## **Part One**

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### **3 POPEYES LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)**

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

**Licensing Panel hearing held on Tuesday 23 April 2024 virtually in respect of the application for a premises licence for Popeyes, 131-132 North Street, Brighton BN1 1RG**

The panel has read all the papers including the report and relevant representations and listened to the submissions put forward at the hearing. The panel has also had regard to the council's Statement of Licensing Policy (SOLP) and the section 182 statutory guidance.

The application is for a new premises licence, authorising late night refreshment between 23.00 hours and 02.00. The premises will be closed to the public after midnight, and thereafter sales will be restricted to deliveries only. Comprehensive robust conditions addressing all 4 licensing objectives were agreed in advance with the Police and Environmental Health. They are set out on pages 31 to 33 of the published agenda.

The premises are situated within the Cumulative Impact Zone (CIZ). The CIZ policy was introduced as the Licensing Authority determined that the concentration of licensed premises and subsequent numbers of people drawn into the city centre was causing problems of crime and disorder and public nuisance. Our policy states that applications for new premises licences will be refused following relevant representations unless the applicant can demonstrate that their application will have no negative cumulative impact. 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 the application is unlikely to add to the cumulative impact of an area, it may be granted. The policy goes on

to stress that the impact can be expected to be different for premises with different styles and characteristics, especially where alcohol is not the primary focus.

A “matrix” approach to licensing decisions has been adopted by the council in its SOLP. It sets out a framework of what the licensing authority would like to see within its area and gives an indication of the likelihood of success to any applicant. The matrix provides a terminal hour of midnight for restaurants within the CIZ, and a “No” for late night takeaways. The SOLP provides that the matrix will be strictly adhered to, although each application will be considered on its own merits. Departure from the matrix will only be considered in exceptional circumstances.

One representation was received from the Licensing Authority setting out concerns relating to the Prevention of Crime and Disorder, the Prevention of Public Nuisance and Cumulative Impact.

At the hearing, we heard from the Licensing Authority representative, who expanded upon their objection.

We also heard from the applicant’s representative, and the company’s Chief Development Officer.

In their presentation, and in answer to questions we were told that:

- *In formulating the application, due regard had been given to the Council’s SOLP, and the premises’ location within the CIZ.*
- *The matrix indicated that restaurants were acceptable in the CIZ until midnight.*
- *The sale of alcohol was not part of the application.*
- *Prior to submission of the application, there had been consultation with Environmental Health and the Police which had resulted in comprehensive robust conditions being agreed.*
- *Delivery cyclists and drivers will collect orders from a dedicated area to the rear of the premises. That area will comfortably accommodate 2 or 3 delivery operatives. The applicant is not in a position to require delivery third parties, such as Uber, Just Eats and Deliveroo to make all deliveries by bicycle or electric vehicles.*
- *After midnight, the main lights will be turned off/dimmed to indicate that the premises are closed to the public. Additionally there will be a Closed sign on the door. Shutters are not an option, given the extensive glazed frontage.*
- *The applicant’s experience across its estate indicates that there is a demand for delivery services every day until 2 am.*
- *The applicant’s policy is not to deliver to customers in the street or parks.*

The panel has considered this application on its own merits. It welcomes the applicant’s active engagement with the Police and Environmental Health, and the ready acceptance of conditions.

We note paragraph 3.21 of the statutory guidance: -

“The provision of late-night refreshment is regulated primarily because it is often linked to alcohol-fuelled crime and disorder in the night-time economy, such as at fast-food takeaways where late-night drinkers congregate.”

As the sale of alcohol is not part of this application, the risk of late-night drinkers congregating outside is diminished. Further, in our view the existence of a delivery service is more likely to draw customers away from the town centre, rather than in to it. We do not believe that the proposed operation of the premises as outlined at the hearing will cause any negative cumulative impact, and we are therefore granting the application subject to the agreed conditions set out in the agenda.

The Panel believes that the attached conditions are appropriate for the promotion of the licensing objectives.

The minutes of the panel will be available on the Council’s website under the rubric ‘Council and Democracy’.

#### Appeal Rights

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

The applicant may appeal against the decision to impose conditions on the licence.

Any person who made a relevant representation who desires to contend that the licence ought not to have been granted, or that on granting the licence, the licensing authority ought to have imposed different or additional conditions, may appeal against the decision.

All appeals must be made to Magistrates’ Court, Edward Street, Brighton, within 21 days of notification of this decision letter. A fee is payable upon lodging an appeal.