

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

10.00am 21 OCTOBER 2024

VIRTUAL

DECISION LIST

Part One

1 TO APPOINT A CHAIR FOR THE MEETING

3 TESCO EXPRESS LICENSING PANEL PANEL (LICENSING ACT 2003 FUNCTIONS)

Ward Affected: Regency

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

Licensing Panel hearing held on Monday 21 October 2024 virtually in respect of the application for a new premises licence for Tesco Express, 194 Western Road, Brighton, BN1 2BA

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 Licensing Act 2003 statutory guidance.

The application is for a new premises licence authorising the sale of alcohol for consumption off the premises between 08.00 and 22.00 hours every day.

The premises are situated within the Cumulative Impact Area (CIA). This is an area where the council has determined that the concentration of licensed premises in an area of the city centre is causing problems of crime and disorder and public nuisance, and that an approach to "Cumulative Impact" is necessary as part of its SOLP. That approach provides that applications for new licences in the CIA which are likely to add to the existing Cumulative Impact will be refused following

relevant representations. The presumption of refusal can be rebutted if the applicant can show that their application will have no negative Cumulative

Impact.

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 suggests that no off-licences will be permitted in the CIA.

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, the Licensing Authority representative restated their policy objection to the application.

We heard from the applicant’s legal representative and Licensing Manager. In their presentation, and in answer to our questions we were told that:

- *Tescos are responsible retailers and had pioneered a number of alcohol licensing best practice measures.*
- *Within the Brighton area, Tescos liaise closely with the Police. The applicant had worked closely with them to identify a suitable location for the new retail outlet and had agreed conditions, which are set out on pages 31 to 33 of the agenda.*
- *The conditions are not standard. They are designed to address problems associated with the CIA. The special conditions include alcohol behind a screen, staff training every 12 weeks and a door supervisor on duty throughout the store’s opening hours, which are longer than the hours for the sale of alcohol.*
- *The applicant company understands the CIA. It already operates 3 stores within it. They do not cause problems. The new store manager has worked at two of them.*
- *Alcohol is a small but important part of the Tesco offer. Typically, 95% of alcohol sales are linked to sales of other goods.*
- *The store will have additional security measures in place – at least 2 body-worn video cameras on the security guard and team leader: the ability to close the door and admit customers one by one; a button to summon support.*

The panel has considered this application on its merits. We note the policy objection to the application based on both the CIA and Matrix, but we are particularly struck by the absence of an objection to the application by the Police. In our experience, that is unusual. We rely on the Police to be the council’s main source of advice on matters relating to the promotion of the crime and disorder licensing objective. Their lack of objection together with agreement of unusually onerous conditions leads us to conclude that they do not anticipate that this application will add to the problems of cumulative impact in the area.

We have also noted the applicant’s close liaison with the Police, and the agreement of conditions. Our CIA policy allows a departure from the policy in “exceptional circumstances”. These include consultation with and meeting requirements of responsible authorities. In this case, the applicant has satisfied the exceptional circumstances definition, allowing a departure from policy. In

summary, we do not believe that the application will add to the issues associated with cumulative impact.

The application is therefore granted with the conditions agreed with the Police, as set out on pages 31-33 of the agenda.

The Panel believes that the above 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'. A webcast of the meeting is also available.

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.