

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

10.00am 3 FEBRUARY 2025

DECISION LIST

Part One

3 CARDAMOM LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

Ward Affected: Kemptown

Licensing Act 2003 – Licensing Panel Hearing Notification of the Determination

Licensing panel hearing held via Teams on Monday 3rd February 2025 in respect of the application for a new premises licence in respect of premises known as Cardamon, 119 St James' Street, Brighton, BN1 2HA.

The panel has considered the report with the relevant representations made. It has listened carefully to all the points and submissions made at the hearing. In reaching its decision, it has had due regard to the Council's Statement of Licensing Policy (SOLP) and section 182 guidance.

The application is for a new premises licence, for an Indian restaurant authorising the sale of alcohol on the premises every day 10:00 to 00:00 hours and late night refreshment 23:00 to 00:00. The application is 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.

Representations were received from Sussex Police, and the Licensing Authority. The representations raised the licensing objectives of the prevention of crime and disorder, the protection of children from harm, public safety and cumulative impact.

There are unusual circumstances relating to this application in that a premises licence has been in existence previously but has lapsed twice necessitating the current application.

Both the police and licensing authority have no confidence in the applicant to be able to adhere to conditions on the licence or promote the licensing objectives. This was due to their previous dealings with the premises and licence holder which are detailed in their representations. In relation to a second follow up visit in December 2024 when breaches of conditions were still in evidence the police issued a final warning letter. It then came light that the applicant's premises licence company had been dissolved some months previously and so the licence had lapsed. The hours applied for were also contrary to the current planning permitted hours. Because of their concerns both the police and licensing asked the panel to refuse the application.

The applicant's agent addressed the panel and made the following submissions. The situation with the company was an administrative oversight and his client gained nothing from it and should not be criticised for this, and but for this oversight the licence would be in place today. There has been a licence at this site since 2005. This should constitute exceptional circumstances. Mr Islam was not involved at the initial time of police involvement and only really since December 2023. He is now the business owner and does all the front of house work. Licensing was new to Mr Islam and he put off installing CCTV due to the expense. Planning had not made a representation and was a separate regime. The submission was made that the final warning issued by the police in December 2024 meant that they were content for him to continue with the licence and yet despite no new evidence their representation submitted shortly after stated no they had no confidence in him and this was unfair. The applicant would be the only member of staff selling alcohol and was trained and would train other staff. The applicant would be compliant going forward, had learnt much and had assistance from the agent.

During questions from the panel and others, doubts were raised as to the ability of the applicant to run the business himself and be on the premises at all times 7 days a week. It was stated that his wife sometimes helps out.

The panel has carefully considered this application on its merits and in light of the concerns raised by the Responsible Authorities and submissions on behalf of the applicant. The panel is very mindful of the location of these premises in the CIZ and in particular St James's street which suffers from relatively high levels of crime and disorder.

Taking the history of these premises into account and the previous breaches of licence conditions and lapses of the licence, the panel does not have confidence that the applicant will operate these premises in accordance with the requirements of the licensing regime and conditions on the licence. The

responsible authorities have intervened and given advice but still issues have remained. Respectfully, the panel does not construe the police 'final warning' on the 5th December 2024 as a demonstration of their confidence in the licence holder, and in the context of a new application after a further lapse of the licence it understands why representation was made by the police and joined by the Licensing Authority. The panel is also concerned about the ability of the applicant to be on the premises all the time and cope with the demands of operating the licence including administrative requirements which he has not shown himself capable of in the past, and this gives further cause for concern. Overall the panel shares the concerns of the responsible authorities and considers that granting this licence in the CIZ in this location is likely to undermine the licensing objectives and therefore the application is refused.

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

a) FIELD_TITLE