

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

10.00am 14 JULY 2025

VIRTUAL

DECISION LIST

Part One

SMACKS HAMBURGER LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

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

RE: Licensing Act 2003 – Licensing Panel Hearing Notification of the Determination of Panel.

Licensing panel hearing held virtually via Teams on Monday 14th July 2025 in respect of the application for a premises licence in respect of premises known as Smacks Hamburger, 46 West Street, Brighton, BN1 2RA

The Panel has read all the papers including the report, and relevant representations and has listened to all the submissions made today. The panel has had regard to the Statutory Guidance and the Statement of Licensing Policy.

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. The policy applies to all new premises licences for example pubs, restaurants and take-away establishments.

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 negatively 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 late-night refreshment licence gourmet burger takeaway with late night refreshment from 23:00 to 03:00 every day.

Two representations were received from Sussex Police and the Licensing authority. The representations had concerns regarding the prevention of crime and disorder, public nuisance and cumulative impact. The police had concerns about the location of these premises which was the focal point for operation Marble in the heart of the CIZ and suffered high levels of crime and disorder, over 9000 incidents in one year with a peak between 01:00 and 02:00 hours. Offering food for takeaway for the hours applied encouraged people to remain in the area, attracted intoxicated persons and was likely to lead to an increase in incidents and hinder dispersal. No exceptional circumstances had been shown. Conditions could not fully mitigate this risk, and they were therefore recommending refusal. The licensing authority was also concerned about the application in policy terms and location and whether there were any exceptional circumstances to depart from the policy.

The applicant was represented by Mr Hadad a chartered environmental Health officer. He made the following submissions. His client had operated for 6 months without complaints. The previous tenant had had a late-night refreshment licence until midnight. The business needed extended hours to survive. Other businesses had closed within the CIZ. He had suggested conditions such as SIA security from 09:00 to 03:00 hours on Friday and Saturday. Other proposals were to have no takeaways after midnight with eat-in only or delivery only after midnight or closing at 02:00 hours. There would be no congregation of delivery drivers.

The panel and police were able to question the applicant and did so especially around how some of these proposals would be managed and the SIA security role, and the nature of this location.

The panel has carefully considered this application on its merits and is mindful of the location of the premises in West Street within the CIZ which experiences high levels of crime and disorder and is a very challenging area as illustrated by the police. The panel did not consider that the applicant's representative demonstrated adequate understanding of the area which is at the core of the CIZ or of the challenges such an operation presented in this location. During questioning especially, the panel considered that there was inconsistency in the presentation and messaging, and the panel, and the responsible authorities, were left unclear about the approaches to management, door control and security, and deliveries. Furthermore, the panel do not consider that the applicant has shown any exceptional circumstances to enable departure from the cumulative impact policy. Overall, the panel shares the police and licensing concerns that granting the application is likely to add to problems of cumulative impact and undermine the licensing objectives. The panel is therefore refusing this application.