

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

10.00am 18 MARCH 2013

COMMITTEE ROOM 1, BRIGHTON TOWN HALL

MINUTES

Present: Councillor ; Deane, Hawtree and Simson

Officers: Rebecca Sidell (Lawyer), Jean Cranford (Licensing Officer), Nathan Birch (Democratic Services Officer)

PART ONE

109. TO APPOINT A CHAIR FOR THE MEETING

Councillor Deane was appointed Chair for the meeting.

110. PROCEDURAL BUSINESS

110a Declaration of Substitutes

There were none.

110b Declarations of Interest

There were none.

110c Exclusion of the Press and Public

In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

RESOLVED - That the press and public not be excluded from the meeting during consideration of Item 108 onwards.

111. MARVANS NEWS LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

111.1 The Panel considered a report of the Head of Regulatory Services for an application for a new Premises Licence for Marvans News, 84 Beaconsfield Road, Brighton.

In attendance were Sgt Wauchope and David Bateup (Sussex Police) and Stewart Gibson (Agent for the applicant).

Introduction from Licensing Officer

- 111.2 The Licensing Officer introduced the report. This application is for a new Premises Licence at 84 Beaconsfield Road, Brighton - a newsagent/convenience store. The applicant has applied for provision of alcohol sales, Mon to Sun from 08.00 to 21.30. The applicant previously applied for a 06.00 – 23.00 finish but this has since been amended to 08.00 with a terminal hour of 21.30.
- 111.3 The premises do not fall within the cumulative impact area or the special stress areas. The panel should consider whether the area is considered a residential area or a mixed commercial and residential area with regard to the matrix guidance.
- 111.4 A representation has been received from Sussex Police. The Police have concerns relating to prevention of crime & disorder and protection of children from harm. They have asked that the application be refused in line with the Council's Statement of Licensing Policy Matrix.
- 111.5 The Police have negotiated some conditions with the applicant, set out in the agenda papers, which they would like to be included in the operating schedule should the panel decide to grant this application.
- 111.6 There were no questions of the Licensing Officer.

Representation from Responsible Authority – Sussex Police

- 111.7 The Chair invited the Police to set out their representation. The representation set out in the printed agenda contained a letter from Chief Superintendent Graham Bartlett.
- 111.8 Sgt Wauchope stated that the premises were in close proximity to Preston Park, an area which has seen high numbers of under age drinking and anti social behaviour incidents. He believed that the granting of this licence would not uphold the licensing objectives regarding preventing crime and disorder and protecting children from harm.
- 111.9 Sgt Wauchope drew attention to the Licensing Policy matrix and believed that this was a mixed commercial and residential area, and should therefore be refused. He believed there was nothing within the application to set it apart from the Matrix.
- 111.10 Following questions from the Panel the following information was provided. There was a general belief that incidents within Preston Park are weather led and that the alcohol involved is purchased from nearby off sales licensed premises. The owner had agreed to various conditions if the licence was granted, including shutters/blinds to put the alcohol away from sale during later hours of opening. Sgt Wauchope accepted that the agreed opening hour conditions were beyond what would be required in a mixed area, but more than for a residential area. Sgt Wauchope did not believe any particular location of the alcohol within the shop affected potential sales. He added that the early start to sales did not impact on ASB in this area.

111.11 Following a question from the applicant's agent the Police confirmed that they did not have specific evidence that the licensed premises in the Beaconsfield Road area were responsible for underage sales. They also confirmed there is no ongoing action against any local premises.

Representation by the Applicant

111.12 The Chair invited the applicant to make their representation. Mr Gibson explained that this was an application for a new Premises License for Marvans News in Beaconsfield Road, Brighton. It had originally been an application for the opening hours of the shop, but these hours had been reduced as set out in the agenda papers.

111.13 The premises were in a parade of 8 shops, but this is a heavily residential area and he invited the panel not to consider it as mixed as per the Licensing Policy Matrix. The premises are a small shop and the owner was looking to install a 2m chiller unit at the rear of the shop for beer and wine. This would be in full view of the serving counter and the shop staff.

111.14 Mr Gibson added that there was already an off licence next door, trading to 22:00h, but his client would be happy to comply with the Licensing Policy for residential areas and cease selling alcohol at 20:00h. The applicant was also willing to comply with all other conditions proposed by the Police. He believed that there should not be an assumption that any new licence holder would break the law and there should be an opportunity to trade.

111.15 Mr Gibson understood that the Licensing Matrix was there to uphold the Licensing Objectives, but did not believe this application posed any threat to these objectives. He pointed out there had been no objections from local residents and that this was a family run business. The applicant had undergone his licence holder training and would ensure all staff undergo the Level 1 Responsible Trader training online. He understood proxy sales were hard to control, but the applicant would do everything they reasonably could to ensure they did not happen.

111.16 Following questions from the Panel the applicant's agent confirmed it was not their intention to expand the sale of alcohol to create an off licence. As an independent trader the running of promotions was very difficult and they did not intend to compete with the neighbouring off licence. The alcohol sales within the shop were merely an ancillary benefit to their current customers. The applicant would also be happy to accept a condition to prevent expansion, such as limiting the alcohol sales to 15% of the trading floor space. The applicants believed it would be easier to stop proxy and under age sales in a small shop with a largely known customer base.

111.17 Following questions from the Police regarding what constituted exceptional circumstances in this case Mr Gibson explained that he believed the applicant had engaged fully with Sussex Police in close consultation and was happy to take on their conditions, that there was a question regarding the area being of mixed or residential use and that the licensing objectives would not be impacted by the granting of the licence.

Summaries

111.18 The Licensing Officer explained that Licensing Guidance (9.25) states that in determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- The steps that are necessary to promote the licensing objectives;
- The representations, including supporting information, presented by all the parties;
- This Guidance;
- Its own Statement of Licensing Policy.

She added that each application will always be considered on its own individual merits. It is for the panel to consider the use of the area whether mixed commercial or residential in accordance to the Council's Statement of Licensing Policy Matrix for licensing decisions.

111.19 Sussex Police were grateful for the amendments proposed, but their overall objection remained. They believed this was clearly a mixed use area and as such the Matrix approach should apply and the application be refused.

111.20 The applicant's agent reiterated their view that this was mainly a residential area. He accepted that there may be issues in the area, but there was no evidence supplied that the licensed premises on Beaconsfield Road were responsible. The applicant should be given an opportunity to trade and with the various conditions attached there would be the option of a licence review if one was required.

111.21 The Legal Advisor to the panel closed by stating that the panel should consider each case on its merits, in this case various conditions had been canvassed, the decision should have regard to the Licensing Policy and if the Matrix applies are there any exceptional circumstances.

Decision

111.22 The Panel have read very carefully and listened to all the presentations put forward regarding this matter and considered all the arguments. The Panel recognises that the premises are within a mixed residential and commercial area. The Panel are mindful of the Statement of Licensing Policy and the Matrix approach. However, we acknowledge that each case should be heard on its individual merits and that, where exceptional circumstances can be shown, a departure from Policy may be allowed. In this case the Panel notes that the applicant has worked closely with the police, who are the only party to have made representations, and shown a willingness to offer further conditions during the hearing. We have therefore decided to grant the application, with the following conditions;

- The hours of sale of alcohol shall be from 08:00 – 20:00h
- No more than 15% of the selling area floor space maybe given over to the sale of alcohol.
- All other conditions as agreed with the Police as set out in their letter shown on pages 20-21 of the agenda papers.

The Panel believes that these conditions will meet the Licensing Objectives

The meeting concluded at 11.47am

Signed

Chairman

Dated this

day of