

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

**10.00am 3 JANUARY 2018**

**COMMITTEE ROOM G90, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillor; Cattell, Hyde and Simson

**Officers:** Rebecca Sidell (Lawyer), Becky Pratley (Licensing Officer) and Tom McColgan (Clerk)

**PART ONE**

**64 TO APPOINT A CHAIR FOR THE MEETING**

64.1 Councillor Hyde was appointed Chair for the meeting.

**65 WELCOME & INTRODUCTIONS**

65.1 All parties were welcomed to the meeting and everyone present introduced themselves.

**66 PROCEDURAL BUSINESS**

**66 a Declaration of Substitutes**

66.1 There were none.

**66 b Declarations of Interest**

66.2 There were none.

**66 c Exclusion of the Press and Public**

66.3 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).

66.4 **RESOLVED** - That the press and public not be excluded from the meeting during consideration of Item 67 onwards.

## **67 DOWN STORE LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)**

67.1 The Panel considered a report of the Executive Director of Neighbourhoods, Communities and Housing in relation to an application for a new premises license for Down Store, 58 Down Terrace, Brighton, BN2 9ZH. Present at the hearing were: Chirag Patel and Ankita Patel (Applicants); Stewart Gibson (Representing the Applicants); Emma Bullen (Licensing Authority); Peter Wilkinson (Public Health); and Claire Abdelkader and Hannah Staplehurst (Sussex Police).

### **Introduction from Licensing Officer**

67.2 The Licensing Officer stated the following:

- This was an application for a new premises licence for Down Store, 58 Down Terrace, Brighton. The application seeks to trade 7 days a week with alcohol for consumption off the premises only, trading from 8am – 8pm.
- The premises was within the Special Stress Area (SSA).
- The licensing team received 3 representations from; Sussex Police, the Licensing Authority and the Acting Director of Public Health.
- The Representations had concerns relating to Prevention of Crime and Disorder, Prevention of Public Nuisance and that the application was contrary to the Statement of Licensing Policy.
- Many of the conditions suggested in 3.5.4 of Brighton & Hove City Council's Statement of Licensing Policy had been included in the applicant's operating schedule. These included conditions relating to the provision of CCTV, Challenge 25 policy and signage, Refusal system, staff training and refresher training, restricting the strength of beer, lager and cider to a maximum of 6% abv, all sales in sealed containers and consideration had also been taken regarding the display of alcohol, the application also states all alcohol would be behind the counter meaning no self-service of alcohol.
- The adoption of the Matrix approach to licensing decisions found in the statement of licensing policy included a table with provisions for a terminal hour for all classes of license premises in a particular area, recognising the diverse operations and different risks presented by those premises. The matrix stated that applications for off sales in the Special Stress Area should be refused.
- However the policy was not absolute. New and varied applications in the special stress area would not be subject to the presumption of refusal but operators were expected to pay special attention when drawing up their operating schedules and make positive proposals to ensure that their operation would not add to the problems faced in the area.

### **Questions to Licensing Officer**

67.3 In response to Councillor Hyde the Licensing Officer stated that the premises was close to the boundary of the SSA but that policy did not differ for different parts of the SSA.

#### **Representation from Sussex Police**

67.4 The representatives from Sussex Police stated:

- The application was for a new premises in an area which had pre-existing difficulties with alcohol consumption.
- The onus was on the applicant to show positive proposals to prevent their application from causing additional stress in the area.

67.5 Sussex Police also provided a document of suggested additional conditions to the Panel, other responsible authorities and Applicant.

67.6 After an adjournment to read the papers the Chair asked the applicants if they would be happy to accept the conditions if a license were granted.

67.7 The Applicants responded that the proposed conditions were consistent with those they had offered in their operating schedule and would be happy to accept. The Applicants also offered to restrict the sale of alcohol to 10:00am to 7:30pm with opening hours from 7:30am to 7:30pm.

#### **Questions to Sussex Police**

67.8 Councillor Simson asked if the Applicant had contacted the Police before making the application.

67.9 Sussex Police responded that there was no pre-application consultation.

67.10 Councillor Simson asked if there was a high level of anti-social behaviour in the area of the premises currently and if there had been any historic issues.

67.11 Sussex Police stated that a police record search showed no anti-social behaviour in the last 6 months and the immediate area did not have high levels of antisocial behaviour.

#### **Representation from Licensing Authority**

67.12 The representative from the Licensing Authority stated:

- The application undermined the licensing objectives as it was contrary to the statement of licensing policy
- The Applicants have made reference to the licensing policy including staff training, sealed containers and challenge 25
- It was up to the Panel to decide whether the Applicants have shown that the application will have no impact upon the SSA

#### **Questions to the Licensing Authority**

67.13 In response to Councillor Simson the Licensing Authority stated that they had no record of any issues in the immediate vicinity of the premises.

### **Representation from Public Health**

67.14 The Public Health Representative stated:

- There is considerable crime associated with alcohol in Queens Park ward which is ranked as one of the three worst effected wards in the city
- Queens Park ward residents have the highest rates of A&E visits and mortality related to alcohol consumption in the city
- It was difficult to see how increasing the number of licensed premises in the ward would not have a negative impact

### **Questions for Public Health**

67.15 In response to Councillor Simson the Public Health Representative clarified that public health data is sorted according to where a resident lives rather than where an incident happens. This is only available for a ward as a whole and not broken down to a street by street level. The Public Health Representative was thus not able to say whether the issues in Queens Park were due to home or premises drinking or if the area around Downs Terrace was less or more affected by alcohol consumption than the rest of the ward.

### **Representation from the Applicant**

67.16 Mr Gibson stated:

- The initial application included positive conditions to support the Council's licensing policy which were supplemented by the condition presented by the police at the hearing and the offer to reduce the Sale of Alcohol from 10am to 7:30pm.
- Only 12% of the store's shelf space would be used for alcohol products and there would be no customer self-service.
- The premises was a small store which served local residents as there was little passing trade. There was no off-licence in the area for residents to use.
- The crime map showed that the area immediately around the premises only accounted for 4% of the issues in the ward. Most of the incidents occurred in the evening when the store would be closed.

### **Question for the applicant**

67.17 In response to questions from the panel the applicants stated that they lived above the premises and had owned and operated a license shop in the Patcham area of the city for 5 ½ years until moving to their current store.

- 67.18 The applicants also confirmed that they currently maintained a refusal register for tobacco products and there were not many incidents of underage residents trying to buy age restricted products.
- 67.19 Mr Gibson clarified that it was his decision to not contact the police's licensing team before submitting the application. He stated that he received a letter from the police after submitting the application which stated that the police would contact him but they did not.
- 67.20 The Licensing Officer asked the applicants to clarify how they would conceal alcohol from 7:30am when the shop open until 10am when the sale of alcohol began.
- 67.21 The Applicants responded that they would use shutters from 7:30-10am.

### Summaries

67.22 The Licensing Officer Stated:

- This was an application for a new premises licence for Down Store, 58 Down Terrace, Brighton. The application sought the Sale of Alcohol for consumption off the premises from 10am-7.30pm.
  - The representations have asked the panel to decide the outcome of this application and have raised their objections regarding the licensing objectives of the Prevention of Crime and Disorder, the Prevention of Public Nuisance and that the application is contrary to policy as the matrix approach stipulates no to applications for off licences in the SSA.
  - Licensing Guidance stated 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 appropriate to promote the licensing objectives;
    - the representations (including supporting information) presented by all the parties;
    - the Guidance;
    - its own statement of licensing policy
  - It was important to note that each application will be given individual consideration on its own merits.
  - After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule.
  - If the Panel decide to grant the application then any conditions added to the licence to meet the Licensing Objectives should be clear, precise and enforceable.
  - Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives.
- 67.23 The Applicant stated that they were happy to accept all of the conditions suggest by the Police. They felt that this in conjunction with reducing the time alcohol would be on sale

from and the policies they already operated demonstrated that their licensing would not negatively impact upon the area.

**67.24 RESOLVED:**

“The panel has read all the papers and considered all the representations and submissions made at the hearing.

“The application is within the Special Stress Area as defined in the Statement of Licensing Policy, and the representations made have drawn attention to the issues in the area as a whole, such as the levels of crime and disorder and public nuisance. Public Health draw attention to the Public Health Framework for Assessing Alcohol Licensing which ranks the Queens Park area high for A&E attendances and for increasing risk or higher risk drinking.

“The applicants today have further reduced their hours for the sale of alcohol to 10am to 7.30 pm each day. Blinds or shutters will be used to conceal alcohol outside those hours. They point to this being small premises with a local client base and that all alcohol will be displayed behind the counter out of reach.

“The police have proposed a number of conditions which consolidate those already put forward by the applicant and supplement those in the operating schedule. The applicant accepts those conditions.

“The panel has decided to grant this application with the conditions from the police and those from the operating schedule to be attached to the licence. The panel has one amendment to number 4 of the police conditions which is as follows: ‘All alcohol will be kept behind the serving counter beyond arms reach of customers and will constitute no more than 12% of the total display space. There will be no self-service of alcohol by customers.’

“The panel consider that the hours for sale of alcohol are modest and the premises have a local customer base. Although the premises sits within the special stress area, it has been established that the immediate locality around these premises does not have a history of problems of anti-social behaviour or public nuisance and is residential in nature. The panel recognise that Queens Park ward has issues of alcohol misuse as identified by the public health representation, however, there is no evidence relating to the specific area around these premises. The police accept that the conditions offered and reduction in hours help mitigate any risk relating to cumulative impact and special stress. Overall the panel do not consider that these premises will add to problems in the area and that the measures proposed largely meet the requirements of the responsible authorities and will promote the licensing objectives.”

The meeting concluded at 10.40am

Signed

Chairman

Dated this

day of