

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS) ADDENDUM 1

10.00AM, THURSDAY, 21 JANUARY 2021

VIRTUAL

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ADDENDUM

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BEFORE A LICENSING SUB-COMMITTEE OF
BRIGHTON AND HOVE CITY COUNCIL

The Premises at
31A-32 East Street Brighton BN1 1HL

SUMMARY OF PREMISES LICENCE APPLICANT'S SUBMISSIONS

v.13.01.2021

1. This is an application for a new premises licence, to enable the applicant to open a restaurant which, is intended to be open to the general public between the hours of 09:00 and 23:00 Sunday to Thursday, and 09:00 to 24:00 Friday and Saturday.
2. The premises will consist of a ground floor, basement and roof terrace, as per the plan attached to these submissions.
3. Along with the sale of alcohol for consumption on and off the premises, the application also seeks Regulated Entertainment by way of live music and recorded music between 23:00 and 24:00 hours on Fridays and Saturdays, Late Night Refreshment between 23:00 and 24:00 on Friday and Saturday.

4. The type of entertainment on offer will be live signers, sax players, violinists, and DJ's on selected nights, providing entertainment whilst customers dine.
5. The premises will operate as a café between the hours of 09:00 and 19:00 hours, and as a restaurant between the hours of 19:00 and the terminal hour on each day.
6. The applicant for the new licence is Paragon Hospitality (Brighton) Limited, with Unit 14 Innovation Studio Canal Road, Strood, Rochester, Kent, United Kingdom, ME2 4DT listed as the registered address of the company, and Adam Elliott, and Barry Vera listed as Directors of the company. The DPS of the premises is to be Anthony Hegney.
7. This will be a steak led restaurant focused on British cuisine using British and local suppliers. There will be an all-day offer of food, beverage & hot drinks. Breakfast will be available from 8am - 11am with a selection of cooked and freshly baked products of which some items will be available for take away. Lunch & dinner will be served with a seasonal menu of plated dishes from starters - main courses - sides - desserts. Afternoon tea will be available from 2-5pm with a selection of fresh finger sandwiches, daily pastries & cakes, scones, clotted cream & jam. Small plates will be available from 11am - close. This will be a selection of seasonal hot & cold substantial small plates that will change regularly and be available throughout the main floor and terrace. A full selection of drinks will be available, this will consist of - champagnes, wines, cocktails, draft & craft beers, non-alcoholic bottled drinks and cocktails, tea & coffee.

8. Extensive engagement with the responsible authorities, namely the Police, both before the submission of the application, and during the consultation period and the Licensing Authority, has taken place. The positive results of those discussions are as follows:
 9. The application has been amended to request a number of conditions to be added to the operating schedule, as agreed by all parties. These additional conditions can be found on pages, 3 to 9 of these submissions.
 10. For clarity, the full list of agreed conditions, including those offered in the operating schedule are as follows:
 1. The sale and supply of alcohol for consumption off the premises shall be restricted to an area agreed with the owner of the property as displayed within the building lease and or appropriate licence issued by Brighton & Hove City Council for use of tables and chairs on the outside area as shown on the plan deposited. No other forms of off sales of alcohol are permitted.
 2. (a)An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. It must be completed within 24 hours of the incident and will record the following:
 - a. all crimes reported to the venue
 - b. all ejections of patrons
 - c. any complaints received concerning crime and disorder
 - d. any incidents of disorder
 - e. all seizures of drugs or offensive weapons
 - f. any faults in the CCTV system, searching equipment or scanning equipment

- g. any refusal of the sale of alcohol including date, time and name of staff member
- h. any visit by a relevant authority or emergency service.

(b) The log will be inspected and signed off by the DPS (or a person with delegated authority) at intervals of no more than four (4) weeks.

(c) The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence.

(d) Any refusals made for alcohol service e.g., underage, will also be recorded (either in electronic or written form) with the date and time of the refusal alongside the name of the member of staff who made the refusal.

Feedback shall be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises. The log will be kept for a minimum of twenty-four (24) months.

3. All staff members should be checked to ensure they have the right to work in the UK. These checks should be made available upon requests to all responsible authorities. All associated 'entitlement to work' documents:

- (a) must be logged and kept on the premises for the duration of the employment;
and
- (b) must be retained for a minimum of 12 months after employment has ceased.

4. Customers shall only consume alcohol which has been purchased from the premises.

5. (a) Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for

Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and continually recording at all times the premises licence is in operation.

(b) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.

(c) CCTV footage will be stored for a minimum of 31 days.

(d) The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.

(e) A staff member from the premises who is conversant with the operation of the CCTV system shall be in the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested and within a maximum of 24 hours of the initial request.

(f) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.

(g) Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.

(h) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable. Repair records / invoices shall be kept on site for at least 12 months and be readily available to be viewed by all authorised persons upon request.

(i) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

6. Notices shall be prominently displayed within the premises stating that CCTV is in operation.

7. All alcohol products sold at the premises shall have the relevant UK duty paid label attached.

8. No person shall be allowed to leave the premises whilst in the possession of any drinking vessel or open glass bottle, whether empty or containing any beverage, save for making use of the outside seating area.

9. Any person entering the premises who appears to be under the influence of alcohol or drugs shall in the interests of other members of the public using the premises be requested to leave the premises.

10. The premises shall operate a zero tolerance policy to the supply and use of drugs.

11. The premises will become a member of the Business Crime Reduction Partnership or similar scheme approved by the Licensing Authority. The scheme must operate, subject to local coverage, radios and additionally an

exclusion/banning scheme of named individuals within both the day and night time economy.

12. In relation to licensable activities to the outside seating area, this will be subject to the premises holding a valid Table and Chairs licence. Should the licence stipulate times that require the premises to cease use of them earlier than stated on this premises licence, the lesser times will be adhered to.

13. Unless earlier as covered by condition 5, the outside trading area to the front of the premises will be fully cleared of all moveable street furniture and closed to customers by 23:00hrs daily.

14. The outside area shall be monitored and regularly cleared of glasses and bottles

15. Staff will be trained to be alert to any potential danger to customers and react accordingly. If they are unable to quickly defuse the situation without risk to customer or staff, then they are instructed to call the police.

16. All relevant fire procedures are in place for a premises of this size.

17. Patrons attending the premises will be reminded of their responsibilities to leave the premises quietly.

18. A smoking policy will be available on site for inspection as required.

19. No more than 5 patrons from the premises will be permitted to smoke in the smoking area at any one time.

20. Cigarette bins will be provided to encourage smokers to dispose of their cigarettes in a safe manner.

21. The smoking area will be cleaned every evening at the close of trade.

22. Signage relating to Taxi services available, including phone numbers, will be displayed at the entrance to the premises.

23. The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of an authorised person' (as defined by Section 13 of the Licensing Act 2003) or the police or an authorised officer of the Local Authority.

24. The recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.

25. Clear and legible signage (in not less than 32 font bold) advertising the ‘Challenge 25’ policy will be displayed in prominent locations in the premises including at all entrances to the premises as well as at least one location behind any bar.

26. The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:

- * The lawful selling of age restricted products
- * Refusing the sale of alcohol to a person who is drunk

(b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 12 weeks, with the date and time of the verbal reinforcement/refresher training documented.

All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.

27. The sale of intoxicating liquor and other beverages shall be waiter/waitress service for consumption by persons seated at tables.

Substantial food shall be available at all times.

28. Intoxicating liquor shall not be supplied or sold on the premises otherwise than to persons taking table meals there and for the consumption by such a person as an ancillary to their meal. There will be no vertical drinking.

The sale and supply of alcohol for consumption off the premises shall be restricted to an area licensed by the Local Authority for use of the public highway as shown on the plan deposited and such area shall be defined by a physical barrier acceptable to the licensing authority.

11. As a result of the agreed conditions, there are no responsible authority objections to this application.

We are therefore left with an outstanding representation from a local resident:

Personal information has been redacted.

The representation focuses on the following concerns:

a. The prevention of public nuisance by way of noise from the premises

The development of the restaurant is still ongoing, and as part of this development, noise insulation will be installed to prevent the risk of public nuisance by way of noise. The intention is to line the ceilings in the areas necessary to reduce sound transfer with Sound deadening / proofing plasterboard. This will considerably reduce passage of sound vertically.

Additionally, an application of acoustic panels throughout the restaurant and bar. These can be decorative and therefore discrete in appearance but will provide substantial sound soak and therefore reduce the overall level of acoustics of the facility.

b. The entertainment that will be provided is ancillary to dining, provided to enhance the atmosphere, not dominate it. You will note from the conditions that the premises may only operate as a restaurant from 19:00 hours, therefore any entertainment can only be ancillary to the function of the licence, that of a restaurant.

- c. There has been no application for entertainment to take place on the roof terrace, and so this will not happen. Any regulated entertainment will only take place indoors.
- d. In relation to customers leaving the premiss in the evenings, the following conditions have been agreed:

Patrons attending the premises will be reminded of their responsibilities to leave the premises quietly.

And secondly:

Signage relating to Taxi services available, including phone numbers, will be displayed at the entrance to the premises.

This will ensure customers are able to leave the area quickly and quietly so to avoid any public nuisance by way of noise disturbing local residents.

It is plain to all that the country is currently in very difficult times. Many businesses are closing down, many jobs have been, and many more will be lost in the coming months to the detriment of local communities and major cities alike. Here we have a business that, despite the economic uncertainty, is willing to invest in the local area, and not only provide a service for the local community, but also to provide local jobs for local people. No one can predict with any certainty how long the country will suffer the effects of the COVID - 19 pandemic. Businesses that are still willing to invest in the area in these difficult times are in need of support and encouragement.

12. In relation to the cumulative impact policy the applicant makes these points:

The policy is not absolute. In appropriate cases the Council can, and does, grant applications as an exception to policy.

The applicant recognises that the premises falls within the Brighton Cumulative Impact Area, but believe that due to the hours of trading applied for, and the robust conditions offered in the application, and after consultation with the responsible authorities, these premises are an exception to the policy, and so will not compromise any of the Licensing Objectives. The premises is not seeking to operate as a public bar, but is focusing on a food led business, with alcohol sold as ancillary to food, and always with substantial food available.

For these reasons we ask that you consider this application as an exception to the policy.

13. The propriety of taking into account the wider economic impact of licensing decisions was explicitly recognised by the Court of Appeal in the leading case of *Hope and Glory* [2011] EWCA Civ 31, when Toulson LJ observed [at 42]:

“Licensing decisions often involve weighing a variety of competing considerations: benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on.”

14. For these reasons, the sub-committee is invited to grant the licence as amended by the agreed conditions.

STEWART GIBSON

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14 January 2021