

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

10.00am 18 MAY 2021

VIRTUAL

MINUTES

Present: Councillor ; Deane, O'Quinn and Simson

Officers: Donna Lynsdale, Licensing Officer, Rebecca Sidell, Lawyer and Penny Jennings, Democratic Services Officer

PART ONE

1 TO APPOINT A CHAIR FOR THE MEETING

1.1 Councillor Deane was appointed Chair for the meeting.

2 PROCEDURAL BUSINESS

2a Declaration of Substitutes

2.1 There were none.

2b Declarations of Interest

2.2 There were none.

2c Exclusion of the Press and Public

2.3 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).

2.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of any item on the agenda.

3 APPLICATION FOR A NEW PREMISES LICENCE, 66 LEWES ROAD, BRIGHTON

- 3.1 The Panel considered a report of the Executive Director, Housing, Neighbourhoods and Communities requesting that they determine an application for a New Premises Licence in respect of 66 Lewes Road, Brighton.

Officer Presentation

- 3.2 The Licensing Officer, Donna Lynsdale, detailed the considerations that issues that the Panel needed to consider in determining the application and confirmed that representations had been received from Sussex Police and from the Licensing Authority
- 3.3 It was noted that the application had been amended and now sought permission for off sales from 9 am to 11pm on Sunday to Thursday and from 9am to 11.30pm on Friday and Saturday, with the same opening hours. That part of the application relating to late night refreshment had been withdrawn.
- 3.4 The premises were located in the Special Stress Area, which was an area of special concern in terms of the level of crime and disorder and public nuisance. The council's Statement of Licensing Policy (SOLP) provided that applications for new premises licences in the SSA would not be subject to the presumption of refusal, however, operators would be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation would not add to the problems faced in this area. Appendix A of the Policy set out a list of potential measures that the licensing authority considers might be appropriate. The Statement of Licensing Policy also included a matrix approach to licensing decisions, this indicated that applications for new off-licences in Special Stress Areas would not be granted.

Representation on Behalf of the Police

- 3.5 Mr Thoroughgood who was present on behalf of the Police explained that Lewes Road was an area of concern. The premises sat within the St Peter's and North Laine Ward which was ranked number 1 for Police recorded alcohol related incidents and criminal damage in the 2019 Brighton & Hove Public Health Framework for Assessing Alcohol Licensing and number 2 for all Violence against the person and All injury violence. Offences of violence are concentrated between Caledonian Road and the Vogue Gyratory. The premises are in this area. Any new off-licence had the potential to add to the negative cumulative impact in the area.
- 3.6 Mr Thoroughgood went on to explain in answer to questions of the Panel that although there had been no prior consultation, they had been contacted after the application had been submitted. As a result of that consultation, the hours applied for had been reduced and Late-Night Refreshment withdrawn. The conditions which appeared as Appendix A of the report had been submitted to the Police and were considered acceptable as far as they went. However, the Police would welcome additional measures to address the concerns attached to the area, such as BCRP membership.

Representation on Behalf of the Licensing Authority

- 3.7 Sarah Cornell, Senior Licensing Officer, spoke in respect of the representation made on behalf of the Licensing Authority and stated that following discussion with the applicants they considered that the conditions put forward were acceptable. However, even the

amended application was contrary to policy and that it was for the applicant to show exceptional circumstances which would allow a departure from the matrix. There were 23 premises in the Lewes Road licensed to sell alcohol. Of those, 12 were off-licences, 6 had on and off licences, and 5 only on-licences. Some of the licences had very late hours. No breaches of the Licensing Act had been recorded by the Licensing Authority during the currency of the previous premises licence.

Representations on Behalf of the Applicant

- 3.8 Ms Basra spoke on behalf of the applicants, she explained in answer to questions it was explained that the applicants lived in the area and had operated there previously prior to reconfiguration of the premises into several units. These premises had not given rise to issues previously and the applicants had been happy to engage in discussions with the Police and to agree to comply with the conditions they had suggested.
- 3.9 Proposed additional conditions were canvassed with the applicants including BCRP Membership who confirmed their willingness to comply. The manner in which the premises had operated previously were confirmed and it was confirmed by the Police and the Licensing Authority that no problems had been reported in relation to these premises in the past or currently.

Closing Submissions

- 3.10 When no further issues were raised each of the parties were given the opportunity to make their closing submissions and each reiterated the points they had made during they had made during the course of meeting. The Panel the retired to make their decision which is set out below.

The Decision

- 3.11 The Panel confirmed that they had read all of the submitted paperwork and had listened to all that had been said during the course of the hearing by all of the parties.
- 3.12 The Panel had heard from the Police that Lewes Road was an area of concern. The premises sit within the St Peter's and North Laine Ward which was ranked number 1 for Police recorded alcohol related incidents and criminal damage in the 2019 Brighton & Hove Public Health Framework for Assessing Alcohol Licensing and number 2 for all Violence against the person and All injury violence. Offences of violence were concentrated between Caledonian Road and the Vogue Gyratory. The premises were in that area. Any new off-licence had the potential to add to the negative cumulative impact in the area.
- 3.13 The Police said that although there had been no prior consultation, they had been contacted after the application had been submitted. As a result of that consultation, the hours applied for had been reduced and Late-Night Refreshment withdrawn. The conditions which appeared as Appendix A of the report had been submitted to the Police and were acceptable as far as they went. However, the Police would welcome additional measures to address the concerns attached to the area, such as BCRP membership. The Police confirmed that the applicant had previously held a licence at the premises, and no issues apart from a few cases of shoplifting were recorded from that time.

- 3.14 The Panel had heard from the Licensing Authority that even the amended application was contrary to policy and that it was for the applicant to show exceptional circumstances which would allow a departure from the matrix. There were 23 premises in the Lewes Road licensed to sell alcohol. Of those, 12 were off-licences, 6 had on and off licences, and 5 only on-licences. Some of the licences had very late hours. However, no breaches of the Licensing Act had been recorded by the Licensing Authority during the currency of the previous premises licence.
- 3.15 In the presentation on behalf of the applicant and in answer to questions the Panel had been told: -
- The applicant and her husband live within a mile of the premises, and fully understood the problems associated with the area.
 - The applicant previously held a premises licence for 66-68 Lewes Road, with off sales from 7.30 am, and late-night refreshment. The hours now applied for are for a later start time, but the same terminal hour.
 - The applicant holds a personal licence and would be the DPS if the application were to be approved. The applicant's husband does not have a personal licence, but does have managerial skills, and had previously been part of a Mobile Support Unit.
 - Following submission of the application, there had been liaison with the Police which had resulted in the amended application, and a greater understanding of the licensing considerations.
 - In addition to the conditions outlined in the report, the following condition was also offered; "A list of staff members who are authorised to sell alcohol on the premises shall be kept. This shall be endorsed by the DPS with the date such authorisation commences."
 - The applicant and her husband would attend the premises daily but would need assistance. A condition requiring a minimum of two members of staff being on duty at all times would be acceptable.
 - The business model is a grocery store, with an alcohol offer. A condition that no more than 15% of the sales area of the shop be given over to the display of alcohol for sale for consumption off the premises would be acceptable.
 - The applicant/premises had previously been a member of BCRP and was content for membership of the same to be a condition, together with membership of a Mobile Support Unit.
 - Although the amended application had sought a terminal hour for the sale of alcohol of 11.30 pm on Fridays and Saturdays, 11 pm closing every day would be workable.
 - Conditions 3 and 4 should address concerns about the display of alcohol. The area shown on the report plan with "Shelves to Display Alcohol" would not be accessible to the public. Wine and spirits would be kept behind the counter, and not near the entry/exit.
 - A condition prohibiting the sale of single cans of beer, cider and lager was acceptable.
- 3.16 The panel accepts the Police evidence that the Lewes Road is a crime hot spot. We are also conscious that the matrix in our SOLP indicates that applications for new off-licences in the SSA will not be approved. However, the panel is mindful of the need to consider each application on its own merits. The applicant has submitted, after consultation with the Police, detailed conditions. Several of them, such as Challenge 25

and the installation of CCTV are Best Practice measures as set out in Appendix A to our Policy. Additionally, the imposition of further conditions was accepted at the hearing. Based on her previous experience of running a similar business at the premises and of being a local resident, the Panel believes that the applicant understands the challenges of the area. The Panel had confidence that she and her husband had the necessary experience and ability to run the premises in a responsible way and to promote the licensing objectives. Such direct relevant experience is unusual. It is sufficient to amount to exceptional circumstances, warranting a departure from the matrix. The application is therefore granted subject to the following conditions:

Hours for sale of alcohol for consumption off the premises 09.00 to 23.00 every day.

Opening hours 09.00 to 23.00 every day.

No more than 15% of the sales area of the shop shall be given over to the display of alcohol for sale for consumption off the premises.

No sales of single cans of beer, lager, or cider.

No alcohol shall be displayed near the entrance to the premises.

The licensed premises shall join the Business Crime Reduction Partnership (BCRP) scheme

The licensed premises shall engage the services of a Mobile Support Unit.

Two members of staff shall be on duty at all times the premises are open for business.

A list of staff members who are authorised to sell alcohol on the premises shall be kept. This shall be endorsed by the DPS with the date such authorisation commences

3.17 The panel considered that these conditions were in order to promote the licensing objectives.

3.18 **RESOLVED** – That a New Premises Licence be granted to 66 Lewes Road, Brighton subject to the hours of operation and conditions set out paragraph 3.16 above.

Note: The Legal Adviser to the Committee confirmed that the decision letter to the applicants would include details of the appeal rights available to them.

The meeting concluded at 12.15pm

Signed

Chair

