

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

**10.00am 25 APRIL 2022**

**VIRTUAL**

**MINUTES**

**Present:** Councillor Deane (Chair); Knight and Simson

**Officers:** Liz Woodley (Senior Lawyer) and Emma Grant (Licensing Officer) and Clare Chapman (Democratic Services Officer)

**PART ONE**

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

Councillor Deane was appointed Chair for the meeting.

**2 PROCEDURAL BUSINESS**

**2a Declaration of Substitutes**

There were none.

**2b Declarations of Interest**

There were none.

**2c 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 be not excluded from the meeting.

**3 MONTEFIORE WINE LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)**

**In attendance:**

For the Premises                      Oisin Daly (Agent)

Making Representation:      Jake and Ragibe Sharpstone  
   Nic Roe

### **Officer Presentation**

- 3.1      The Licensing Officer summarised the report and notified Members about the newly proposed conditions from the Applicant which included:
1.      The premises shall not be used for deliveries
  2.      The premises shall only be licensed from 10am – 10pm
  3.      No beers, lagers or ciders above 5.5% ABV shall be sold at the premises
  4.      No spirit miniatures (below 700ml) shall be sold at the premises
  5.      The external areas of the premises shall be covered by CCTV
  6.      The external areas shall be cleared of rubbish at regular intervals by staff who shall have a clear unobstructed view through the front window to monitor congregation and the premises shall also provide refuse bins
  7.      All spirits shall be stored behind the sales counter
  8.      All alcohol shall be stored where the counter staff have a clear unobstructed view to minimise the risk of shoplifting

### **Representations**

- 3.2      Mr Roe was invited to address the Panel. He did not feel there was a need for another off licence in Montefiore Road. There were already other licensed premises in the road including a 24-hour off-licence. It would add to more consumption of alcohol below the residential block of flats in which he resided. He objected to the addition of noise and traffic congestion this premises would add to the area. Mopeds, scooters and cars already come and go for deliveries at neighbouring premises. A number of school children use Montefiore Road as a cut through which could increase proxy sales. He himself had been approached by school children and asked to purchase alcohol. He was worried about an increase in alcohol related crime in the area and was fearful of how this would impact him.
- 3.3      Mr Sharpstone was invited to address the Panel. He claimed the layout of Montefiore Wine would enable customers to steal products which would increase crime in the area. He stated that Montefiore Road was just one street away from the stress area and he did not feel the applicant would adequately deal with crimes committed on his premises. He and his wife had worked hard over many years to reduce crime in the road and customers who had been banned from their shop would now use Montefiore Wine. He felt there was no need for another off licence in Montefiore Road.
- 3.4      The Legal Officer confirmed that “need” was not a consideration for Licensing and did not form part of the Licensing Policy Statement.

### **Applicant Presentation**

- 3.5      Mr Daly had reviewed the Licensing Policy and was aware the premises sat outside the Cumulative Impact Zone and Special Stress Area. He stated the Policy allowed for

licensable hours up until 11pm. He recognised the premises were located within a residential area and the Applicant was willing to reduce the licensable hours to 10pm. Beers, Lagers and Ciders above 5% would not be sold on the premises which he anticipated would reduce the problem of street drinkers. With regard to proxy sales, the addition of a CCTV condition to monitor the external areas had been offered. This was in addition to the standard Police CCTV condition. Staff would clear rubbish at the front of the premises at frequent intervals and would have an unobstructed view of this area. The premises would not be used for deliveries. He reminded the Panel there had been no responsible authority representations against the application.

- 3.6 In response to a question from the Panel regarding the name of the shop, he explained this had been a commercial decision to recognise that alcohol was available. The Panel expressed concern about the name, specifically the reference to wine. The Agent confirmed he was happy to change the name of the premises to Montefiore Foods and would formally notify Licensing of this.
- 3.7 In response to a question from the Panel, he confirmed he was happy to add a condition that no more than 15% of the floor space be used for alcohol.
- 3.8 In response to a question from the Panel, he confirmed the shop would be run by Mr Rahman who would also be the Designated Premises Supervisor. He was not able to provide details of Mr Rahman's experience.
- 3.9 The Legal Officer advised Members they had the option to adjourn decision making if they felt it was in the public interest for the Applicant to be present at the hearing. Panel Members agreed they had heard sufficient evidence to make a decision.

### **Closing Submissions**

- 3.10 Each of the parties were given the opportunity to make their closing submissions and each reiterated the points they had made during the meeting. The Panel then retired to make their decision which is set out below.

### **Decision**

- 3.11 That the Premises Licence in respect of Montefiore Foods, 7 Montefiore Road, Hove. BN3 1RD, be granted.

The Panel has read all the papers including the report and relevant representations and listened to all the submissions put forward at the hearing. The panel has also had regard to the council's Statement of Licensing Policy (SOLP) and the statutory guidance.

The application is for a new premises licence for a new convenience store, licensed to sell alcohol for consumption off the premises.

The premises are situated outside both the Cumulative Impact Zone (CIZ) and Special Stress Area (SSA), so the application falls to be determined on its own merits. A "matrix" approach to licensing decisions has been adopted by the council in its SOLP. It sets out a framework of what the licensing authority would like to see within its area and gives an

indication of the likelihood of success to any applicant. For the purposes of the matrix, Montefiore Road falls within "other areas". The matrix provides a terminal hour of 11 pm for off-licences in the "other areas", but this is qualified by note 7 which provides that in residential areas an earlier closing time may be appropriate.

14 representations opposing the application were received. They raised concerns relating to all 4 licensing objectives. In response to the representations and in recognition of the residential nature of the area, the applicant has proposed reduced hours for licensable activities - 10 am to 10pm each day, instead of 9am to 11pm Monday to Saturday and 10am to 11pm on Sundays. The panel has therefore confined its consideration to the reduced hours. The applicant also proposed the following conditions, in addition to the measures set out in the operating schedule: -

- The premises shall not be used for deliveries
- No beers, lagers or ciders above 5.5% ABV shall be sold at the premises
- No spirit miniatures (below 700ml) shall be sold at the premises
- The external areas of the premises shall be covered by CCTV
- The external areas shall be cleared of rubbish at regular intervals by staff who shall have a clear unobstructed view through the front window to monitor congregation and the premises shall also provide refuse bins
- All spirits shall be stored behind the sales counter
- All alcohol shall be stored where the counter staff have a clear unobstructed view to minimise the risk of shoplifting

As a result of the reduced hours, and additional conditions, the representation from two ward councillors was withdrawn before the hearing.

Two residents expanded upon their concerns and answered our questions. They told us that: -

- There is no need for another off-licence in Montefiore Road. The area is already well served by off-licences, including four at Seven Dials. If granted, the licence would bring more drunks and people smoking to the area.
- Parking is already an issue, and a new off-licence will add to the problems.
- Residents already have to endure countless deliveries in the evening from an Indian takeaway.
- One of the residents had been approached by teenagers to buy alcohol and cigarettes.
- Regular refusals of underage alcohol sales are a feature at a local convenience store.
- There had been an attempted armed robbery in the last 3 years at nearby convenience store.
- The proposed layout of the premises will encourage shoplifting.
- Some premises in the parade have extended opening hours, including the Indian Takeaway, Montefiore Fisheries and Happy Planet.
- Montefiore Road is just outside the SSA.

In the applicant's absence, we heard from his agent. In his presentation, and in response to questions we were told: -

- The proposed external CCTV condition, and unobscured windows would assist staff in identifying attempted proxy sales.
- The sale of alcohol will be ancillary to the business. A condition limiting the area of the premises given over to the display of alcohol to 15% would be acceptable.
- The name of the business, Montefiore Wines, was not set in stone.
- The layout of the premises could be changed to ensure that counter staff always had a clear unobstructed view of the alcohol on sale.
- No information was available about the applicant's experience of running an off-licence or proposed staffing levels at the store. It was believed that the applicant had a personal licence.
- The agent had many years' experience of regulating the licence trade. His company would offer support and training to the applicant.

We had a preliminary concern that the name on the application – Montefiore Wine - sent the wrong message. We were therefore pleased to note that during the hearing the applicant changed the name in the application to Montefiore Foods, which we believe more accurately reflects the nature of the business.

Several representations mentioned that there was no need for an additional off-licence. However, as paragraph 3.1.1 of our Statement of Licensing Policy makes it clear, need is a matter for the market or possibly planning, but not Licensing.

We note that the application is within policy, more so with the reduced hours for the sale of alcohol. The Members' personal experience of the Montefiore Road area is that it is not a high crime area, and each of us felt safe there, even at night. The combination of the measures in the operating schedule and the additional conditions should help allay residents' concerns. We do however recognise the need to future proof the licence to ensure that the premises cannot become a traditional off – licence. A condition limiting the sales area of the shop given over to the display of alcohol for sale to only 15 % will address that concern.

In all the circumstances it is appropriate for the Panel to grant the application subject to the following: -

- i) Conditions consistent with the operating schedule
- ii) The additional conditions offered by the applicant and set out above
- iii) A condition limiting restricting the area of the shop given over to the display of alcohol to no more than 15%

The Panel believes that the above conditions are appropriate for the promotion of the licensing objectives.

**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.

After the hearing, we were informed that the applicant did not at the time have a personal licence, allowing him to act as the DPS. The licence cannot come into effect until a DPS is in place.

The meeting concluded at 11.33am.

Signed

Chair

Dated this

day of