

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

10.00am 12 AUGUST 2022

VIRTUAL

MINUTES

Present: Councillors :Ebel (Chair) John and Pissaridou

Officers: Emily Fountain, Licensing Officer, Liz Woodley, Senior Lawyer and Penny Jennings, Democratic Services Officer

PART ONE

1 TO APPOINT A CHAIR FOR THE MEETING

1.1 Councillor Ebel was appointed Chair for the meeting.

2 PROCEDURAL BUSINESS

2a Declaration of Substitutes

2.1 Councillor John declared that she was substituting for Councillor Theobald.

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 / excluded from the meeting during consideration of Item X onwards.

3 BRIGHTON CHRISTMAS FESTIVAL LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

- 3.1 The Panel considered a report of the Executive Director of Housing, Neighbourhoods and Communities requesting that they determine an application for a Time Limited Premises Licence Application under the Licensing Act 2003 by E3 events Limited for Brighton Christmas Festival 2022 in Valley Gardens, Gloucester Place, Brighton.

Presentation by Licensing Officer

- 3.2 Emily Fountain, the Licensing Officer, presented the report, it was confirmed following discussion that this was a time limited, rather than an umbrella permission, also that there was an error in the printed report in that the end date should be 24 December 2022, rather than 21. It was noted that one objection had been received and that the applicants had worked with and consulted with local residents.
- 3.3 The Panel were advised that they needed to consider the application on its individual merits and that any conditions needed to be proportionate and enforceable.

Presentation by Applicants and Response to Member Questions

- 3.4 The Managing Director and the Events Manager were in attendance and answered detailed questions of clarification put by members of the Panel in order to confirm, the precise nature of the operation intended, changes made from what had been on offer the previous year and in response to the objection received. These are summarised below.

Closing Submissions

- 3.5 Having responded in depth to the questions put by the Panel closing submissions made by all parties following which the Panel considered the information provided to them made their deliberations and arrived at their decision. These deliberations and their decision are set out below.

The Decision

- 3.6 The Chair was at pains to point out that The Panel had read all the papers including the report and relevant representations and listened to the submissions put forward at the hearing. The panel had also had regard to the council's Statement of Licensing Policy (SOLP) and the statutory guidance.
- 3.7 The application was for a time limited premises licence for a Christmas Festival in St Peter's Plaza, Richmond Square and Valley Gardens North licensed to sell alcohol for consumption on and off the premises together with amplified live entertainment and recorded music from 10.00 to 23.00 hours every day.

Although the report to the panel referred to the licence expiring on 21 December, the Panel were satisfied that this was an error, and that it should read 24 December, the date included in the application and Regulation 25 notice. At the hearing the Panel were also told that the application should also be for three years, not just one as stated in the report. On the information available, the Panel was not satisfied that the application for a

3-year alcohol licence had been properly advertised. It was noted that on 11 March 2021 the council's Tourism, Equalities and Culture Committee had agreed to the staging of a Christmas Market in Valley Gardens, St Peter's Square and Richmond Square in the winter months of 2021, 2022 and 2023. The terms of the annual licences to E3 Events Limited for these years was delegated to the Executive Director, Economy and Culture. The Panel suspected that there was some confusion about the 3 annual licences to use the land granted by the council in its capacity as landowner, and licences under the Licensing Act 2003 to use the land for licensable activities.

The premises were situated within the Cumulative Impact Zone (CIZ). The effect of the cumulative impact policy is that applications for new premises licences would normally be refused following relevant representations. The presumption of refusal can be rebutted by the applicant if they can show that their application will have no negative cumulative impact on the licensing objectives. The special policy will only be overridden in exceptional circumstances. However, our policy recognises that different premises may have different level of impact depending upon their style and characteristics. If an application is unlikely to add to the cumulative impact of an area, it may be granted.

A "matrix" approach to licensing decisions had been adopted by the council in its Statement of Licensing Policy (SOLP). It set 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.

In addition to the measures outlined in the operating schedule, (pages 25 to 27 of the agenda) the applicant had pre-consulted with the Police and other agreed an extensive suite of conditions. (Appendix E). The Licensing Officer advised that given the extensive pre-consultation, and agreed conditions, Environmental Health had not considered it necessary to make a representation.

One representation opposing the application was received. It raised concerns relating to the Prevention of Public Nuisance. The objector had been unable to attend the hearing and had not taken up the opportunity to expand upon the representation.

In their presentation, and in response to questions the Panel were told by David Hill, (owner and Managing Director of E3 Events Limited) and Phil Riley (Operations Manager) on behalf of the applicant that: -

- E3 Events Limited had run a family orientated Christmas Market in 2021 in the same location. It included shows, a fairground, Big Wheel, Christmas Market and food and drink. Experience of running that event had afforded the opportunity for significant learning. There had been a formal debrief with stakeholders after the event. This year, a smaller less ambitious event was planned, with the focus being on a high-quality magical Christmas market, with chalets. There had been extensive pre-consultation with the Police, Licensing, Councillors and council officers.
- In 2021 the Police insisted on the site being fenced, which made it uninviting. Apart from the main Après – Ski bar, fencing is not required this year.
- In 2021, there had been no public order incidents, nor any need to call the Police. There had been noise issues, mainly associated with the Big Top structure and Fairground

rides on the Old Steine. There will be no Fairground or Big Top structure this year. Shows were being moved to permanent venues in the city to provide a city-wide feel. No big bass speakers will be on site, and a Noise management plan will be in place. There will be no live bands in the Après Ski bar, but rather smaller softer entertainment. Soft underpinning Christmas music will be played when the market is open. Two sound technicians will be on site throughout the event.

- The applicant had responded promptly to 2021 noise complaints, with Mr Hill personally dealing with residents. He had continued dialogue with some of them. Residents will again be provided with a dedicated Events Control contact number.
- A robust Alcohol Management Policy would be in place. In 2021, E3 Events had brought in third parties to run the bars. In 2022, E3 Events team will be running the only 2 bars. Those bars will cover a smaller area than in 2021 and will afford the organisers more control. Apart from bottles purchased for consumption off the site, it will be a glass free zone. Mr Hill had recently obtained a personal licence, and will be the DPS for the event, giving him personal responsibility for compliance with the terms of any Licensing Act licence.
- A Misuse of Drugs Policy would be in place. Even though no substances were surrendered in 2021, a Drugs Amnesty Bin will be in operation for 2022.
- There would be daily site litter collections and recycling points on the site. As in 2021, removal of waste from the site will be demand led.
- Mr Hill had twice offered by email to meet the objector to talk through the objection. He did not receive a reply.
- The applicant will be responsible for re-instating the land/relaying grass after the event.

The Panel noted that the premises are in the Cumulative Impact Zone, and therefore the application was subject to a presumption of refusal unless the applicant can show that there will be no negative cumulative impact. The Panel also noted that the Matrix approach to determining licence applications within the CIZ indicated that an application for a premises licence for pubs and off-licences should normally be refused. However, the Panel had carefully considered this time limited application. It was a much scaled down version of last year's event organised by the same operator, at which there were no issues of drunkenness. Noise issues were attended to promptly, and robust arrangements would be in place this year to manage noise. Other robust policies for Alcohol and Drugs would also be in place. We are reassured about the level of engagement with residents. Whilst the Panel recognised the objector's concerns around noise and public nuisance, it considered that the combination of the measures outlined above should ensure that there was no negative cumulative impact. The Panel did not consider that the Matrix approach was particularly helpful in determining time limited applications, but in any event, the Panel considered that this application was exceptional.

In all the circumstances it was therefore appropriate for the Panel to grant this time limited application for the period 18 November 2022 to 24 December 2022 subject to the following:

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- i) Conditions agreed with the Police, set out in Appendix E of the agenda
- ii) Conditions consistent with the operating schedule to the extent that they have not been superseded by any of the conditions referred to in i) above.

The Panel believed that the above conditions were appropriate for the promotion of the licensing objectives.

3.8 **RESOLVED** - That this application be approved for the reasons out above and subject to the conditions also set out above.

Note: The Legal Adviser to the Panel confirmed that the applicant would be advised of the Panel's decision in writing with details of their appeal rights attached.

The meeting concluded at 11.27am

Signed

Chair

Dated this

day of