

Licensing Panel (Licensing Act 2003 Functions)

Date: **25 January 2024**

Time: **10.00am**

Venue **Virtual**

Members: Lyons, Nann and Hewitt

Contact: **Niall Breen**
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AGENDA

1 TO APPOINT A CHAIR FOR THE MEETING

WELCOME & INTRODUCTIONS

2 PROCEDURAL BUSINESS

(a) **Declaration of Substitutes:** Where Councillors are unable to attend a meeting, a substitute Member from the Licensing Committee may attend, speak and vote in their place for that meeting.

(b) **Declarations of Interest:**

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) **Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

3 THE MONA LISA LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

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Contact Officer: Corinne Hardcastle
Ward Affected: Kempton

Tel: 0127329

Date of Publication - Friday, 19 January 2024

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FURTHER INFORMATION

For further details and general enquiries about this meeting contact , (01273 291354, email niall.breen@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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Licensing Panel (Licensing Act 2003 Functions)

Brighton & Hove City Council

Subject:	Application for a Variation of a Premises Licence under the Licensing Act 2003		
Premises:	The Mona Lisa, 89 St James's Street Brighton BN2 1TP		
Applicant:	Mr Cem Ince		
Date of Meeting:	25 January 2024		
Report of:	Executive Director of Housing, Neighbourhoods & Communities		
Contact Officer:	Name:	Emily Fountain	Tel: (01273) 292143
	Email:	emily.fountain@brighton-hove.gov.uk	
Ward(s) affected:	Kemptown		

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 To determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for The Mona Lisa.

2. RECOMMENDATIONS:

- 2.1 That the Panel determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for The Mona Lisa.

3. CONTEXT/BACKGROUND INFORMATION & CONSULTATION

- 3.1 The application is for a Variation of a Premises Licence under the Licensing Act 2003. The application proposes

The premises would like to add alcohol for on sales only to their current licence - new set of conditions to be added along with any existing conditions on the current licence.

- 3.2 Section 16 (Operating Schedule) of the application is detailed at Appendix A and the new plan of the premises is attached at Appendix B

3.3 Summary table of **existing and** proposed activities

	Existing	Proposed
Performance of Recorded Music	Monday - Thursday 12:00 - 01:00 Friday – Saturday 12:00 - 03:00 Sunday 12:00 - 00:00	No Change
Late Night Refreshment	Monday - Thursday 12:00 - 01:00 Friday – Saturday 12:00 - 03:00 Sunday 12:00 - 00:00	No change
Supply of Alcohol	None	Every Day: 12:00 – 00:00 On the Premises
Hours premises are open to public	Monday - Thursday 12:00 - 01:00 Friday – Saturday 12:00 - 03:00 Sunday 12:00 - 00:00	No change

3.4 Existing licence attached at Appendix C

3.5 Cumulative Impact. The premises falls within the Cumulative Impact Area (“The Area”) (see paragraphs 3.1 – 3.1.10).

Representations received

3.6 Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. A summary appears below:

3.7 2 representations were received. They were received from Sussex Police and the Licensing Authority.

3.8 Representations received had concerns relating to Prevention of Crime and Disorder, Public Safety and Cumulative Impact.

3.9 Full details of the representations are attached at Appendix D. A map detailing the location of the premises is attached at Appendix E.

4. COMMENTARY ON THE LICENSING POLICY

4.1 The following extracts from Brighton & Hove City Council Statement of Licensing Policy are considered relevant to this application and **are numbered as they appear in the policy**:

1 Introduction

1.1 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 (the Act) and having regard to Guidance issued by the Home Office under Section 182 of the act. This policy takes effect from the 4th February 2021. The licensing authority is Brighton & Hove City Council. The purpose of this statement is to promote the licensing objectives and set out a general approach to making licensing decisions. The discretion of the licensing authority in relation to applications under the act is only engaged if 'relevant representations' are made by other persons or responsible authorities. This policy will inform the approach to be taken when deciding applications and imposing conditions when relevant representations are received. It is also intended as a guide for applicants as to what to include in their operating schedules, always recognising that if no representations are received, the application must be granted. The licensing authority must carry out its functions with a view to promoting the licensing objectives and this policy is framed around those objectives. Each application will be given individual consideration on its merit. The scope of this policy covers the following:

- Retail sales of alcohol.
- The supply of alcohol by or on behalf of a club, or to the order of, a member of the club.
- The provision of regulated entertainment.
- The provision of late night refreshment.

1.2 The licensing objectives are:

- (a) the prevention of crime and disorder.
- (b) public safety.
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

1.3 Scope

1.3.1 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity. Each application will be given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the act.

3 Special Policies and Initiatives

3.1 Cumulative impact

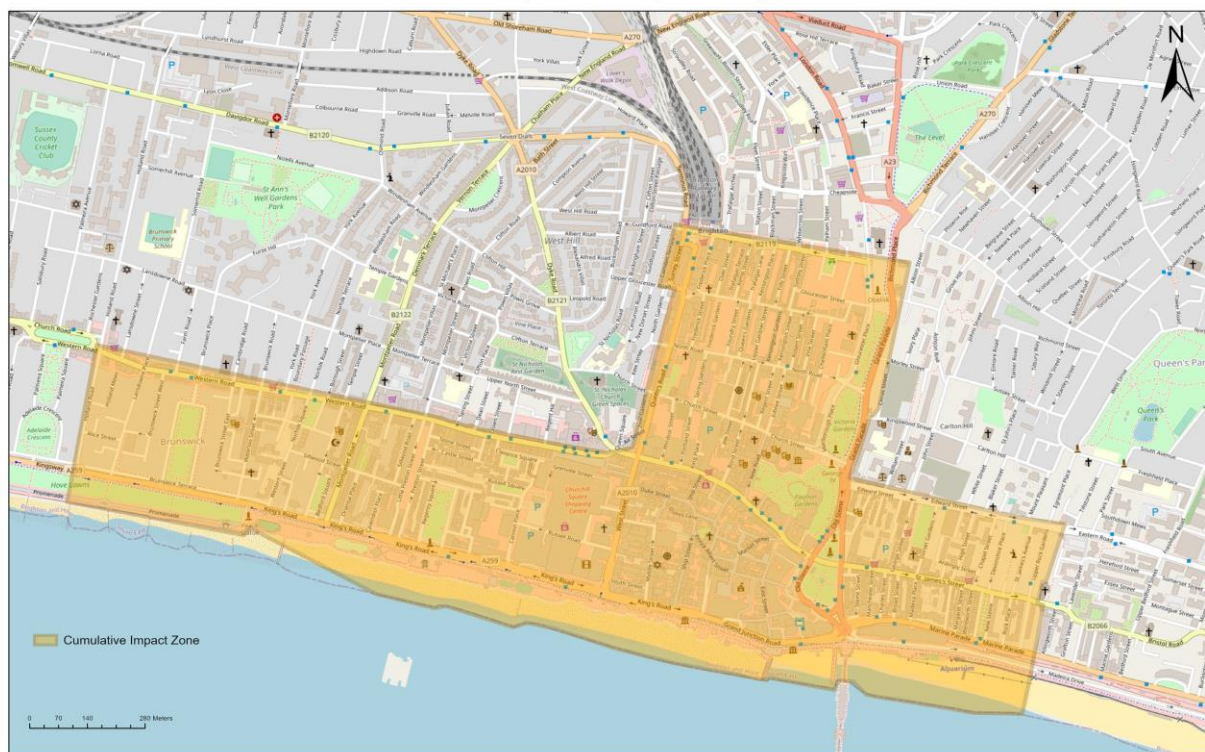
3.1.1 The licensing authority may receive representations from either a responsible authority or other persons that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is therefore a matter for the market to decide and can, in some circumstances, be a matter for planning consideration; need therefore, does not form part of this licensing policy statement.

3.1.2 **Special Policy** - Cumulative Impact is defined as the potential impact upon the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

3.1.3 The licensing authority, after careful consideration, has determined that the concentration of licensed premises in an area of the city centre is causing problems of crime and disorder and public nuisance, and that therefore an approach to 'Cumulative Impact' is necessary as part of its statement of licensing policy. The first Special Policy incorporating a Cumulative Impact Zone (CIZ) and Special Stress Areas (SSA's) was adopted in March 2008. Since that date, the licensing authority has kept the CIZ and SSA's under review. On 15 December 2011 Full Council resolved to expand the CIZ and the special stress area, covering 1.5% of the administrative area of Brighton & Hove City Council. On 20th November 2014 Licensing Committee resolved to confirm the current CIZ and SSA as defined in the current Statement of Licensing Policy. On the 29th November 2018 Licensing Committee resolved to expand the SSA into Central Hove. It is now proposed to expand the SSA into Preston Road and Beaconsfield Road. The licensing authority has published a Cumulative Impact Assessment which can be found at Appendix E.

3.1.4 This special policy will refer to a Cumulative Impact Zone ("the CIZ") in the Brighton city centre, a detailed plan of which is shown below.

Cumulative Impact Zone, January 2021



Brighton & Hove Public Health Intelligence, 2021
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3.1.5 The Cumulative Impact Zone comprises the area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Holland Road to the junction with the west side of Dyke Road at its eastern end; from there, north-east to the junction of the north side of Air Street with the west side of Queens Road and then northward to the north-west corner of Surrey Street junction with Queens Road; thence along the north side of Trafalgar Street eastwards to its junction with York Place and continuing south-east across to Grand Parade, then south to the junction of Edward Street; along the north side of Edward Street to the east side of its junction with Egremont Place and southward along the eastern sides of Upper Rock Gardens and Lower Rock Gardens; southward to the mean water mark and following the mean water line westward to a point due south of the west boundary of Holland Road; northward to that point and along the west side of Holland Road to its northwest boundary and then diagonally across Western Road to its intersection with the west side of Holland Road.

3.1.6 The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licences or club premises certificates within the area, or variations which are likely to add to the existing Cumulative Impact will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact.

3.1.7 This special policy also applies to all new premises licences and club premises certificates, for example pubs, restaurants and take-away establishments. Off licences also come within this policy as they can contribute to problems of street drinking, proxy purchasing, dispersal issues, preloading and excessive drinking and related disorder.

3.1.8 The presumption of refusal does not relieve responsible authorities or other persons of the need to make a relevant representation. If there are no representations, the licensing authority must grant the application in terms consistent with the operating schedule submitted.

3.1.9 Furthermore, this special policy is not absolute. Upon receipt of a relevant representation, the licensing authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy in the light of the individual circumstances of the case. If an application is unlikely to add to the cumulative impact of the area, it may be granted. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant, theatre or live music venue (where alcohol is not the primary activity) may be considered exceptional circumstances. The fact that a premises will be/is exceptionally well managed with a well-qualified applicant, or that there are no residential premises nearby, will not be considered exceptional.

3.1.10 If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that conditions would be ineffective in preventing the problems involved.

3.3 The Matrix Approach

The Licensing Authority will support:

3.3.1 Diversity of premises: ensures that there is a mix of the different types of licensed premises and attracts a more diverse range of customers from different age groups, different communities and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This will have a positive effect in reducing people's fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time may create opportunities for violent crime and public disorder and therefore supports mixed use venues encouraging a wider age balance.

3.3.2 A "matrix" approach to licensing decisions has been adopted and is set out below. It provides a framework of what the licensing authority would like to see within its area and gives an indication of the likelihood of success or otherwise to investor and businesses making applications.

Matrix approach for licensing decisions in a Statement of Licensing Policy (times relates to licensable activities)

	Cumulative Impact Area	Special Stress Area	Other Areas
Restaurant	Yes (midnight)	Yes (midnight)	Yes (midnight)
Café	Yes (10 pm)	Yes (10 pm)	Yes (10 pm)
Late Night Takeaways	No	Yes (midnight)	Yes (midnight)
Night Club	No	No	No
Pub	No	Yes (11pm)	Yes (midnight)
Non-alcohol lead (e.g. Theatre)	Yes (favourable)	Yes (favourable)	Yes (favourable)
Off-licence	No	No	Yes (Up to 11pm but if in densely residential area may be earlier – see note 7 below)
Members Club (club premises certificate)	Yes (<100 capacity) (11pm)	Yes (<100 capacity) (11pm)	Yes

Notes on matrix

Subject to the following notes, the policy, as represented in the matrix, will be strictly adhered to:

- 1) Each application will be considered on individual merit
- 2) Applications within the CIZ are subject to the special policy on cumulative impact at para 3.1, and those within the special stress area to the special stress policy considerations at para 3.2.
- 3) Departure from the matrix policy is expected only in exceptional circumstances
- 4) Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix.
- 5) Exceptional circumstances may include: consultation with and meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to offset impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary to business

activity (demonstrable to responsible authorities and licensing authority, for instance by licence condition allowing authorised officers access to sales accounts).

6) The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community based street parties, members clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre.

7) Other Areas; consideration will be given to the nature of the area and location in relation to any application. In a residential area for example the concerns of local residents will be relevant when considering applications for off-licences, pubs or cafes, especially if there is evidence of anti-social behaviour, street drinking or underage drinking. Earlier closing times may be appropriate. Regard will be had to the Public Health Framework for assessing alcohol licensing on our website www.brighton-hove.gov.uk/licensingact.

8) In an area where there are already several existing off-licences or where the premises is situated within a parade with another off licence and where representations are received about negative cumulative impact on the licensing objectives of a further premises, the application may be refused on these grounds or restrictions placed on the terminal hour to reflect opening hours of other shops.

9) Outdoor events will be supported where arranged through the council's event planning process. Generally, regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The licensing authority will have regard to Noise Council guidance.

10) Non-alcohol led category does not include "alcohol in shared workplaces". It is recommended that sale of alcohol in shared workspaces should have a terminal hour of no later than 10pm. For further advice and guidance on "alcohol in shared workplaces" please see paragraph 3.3.4-3.3.6.

3.3.3 Restaurants - the licensing authority may be prepared to look favourably upon an application for the grant of a licence, subject to the following restaurant condition.

- 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.
- Restaurants with outside service - the licensing authority will also consider applications from restaurants that request to serve alcohol to areas adjacent to or immediately outside their premises. In addition to the above conditions for cafes, the licensing authority will require evidence that the applicants have an agreement with the local authority to use the area as defined on a plan provided. The following condition may also apply:
- 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.

4 Prevention of Crime and Disorder

The following details and measures are intended to address the need for the prevention of crime and disorder which may be associated with licensed premises and certificated club premises. Conditions attached to licences and certificates will, as far as possible, reflect local crime reduction strategies.

- 4.1.1 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority expects that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door supervisors so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection. It is the duty of the designated premises supervisor (DPS) to train staff on induction concerning conditions on their premises licence.
- 4.1.2 It is expected that the DPS will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises and that staff are authorised by the DPS.
- 4.1.3 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.
- 4.1.4 Measures put in place should support the intentions of Operation Marble (police operational order), which aims to prevent incidents of crime and disorder within the night time economy, at weekends. Operation Marble operates with a view to minimising the risk to the public of being a victim of public place violent crime; to reduce incidents of violent crime and public disorder within the city centre; to deal positively with offences and offenders; to secure and preserve evidence which will assist in the prosecution of offenders and to support the night time economy and the responsibly run businesses within it.

4.2 Sussex Police

4.2.1 Sussex Police have a specific Operation relating to the night time economy called Operation Marble (detailed in 3.4.1) and work closely with partners to ensure a safe and vibrant city centre. There continues to be an increasing demand for resources further into the early hours of the morning with the highest concentration of crimes occurring between 21:00 and 06:00 on a Friday into a Saturday and between 20:00 and 06:00 on a Saturday night into a Sunday. The data set used shows that up to 80% of arrests made in the timeframe 20:00 – 06:00 on these days were affected by alcohol. For full details of these statistics see the Cumulative Impact Assessment at Appendix E.

4.2.2 The dealing and use of drugs remains an issue across the city and Sussex Police welcome proactive policies from licensed premises. A drug safe and seizure

recording initiative is in place of which further details can be obtained by contacting Brighton & Hove Police Licensing (brighton.licensing@sussex.pnn.police.uk). This initiative encourages licensed premises with Door Supervisors to search and seize drugs from persons attempting to enter their premises and ensures that once drugs are removed from persons, they can be safely collected and destroyed by Sussex Police.

4.2.3 Dispersal from the city centre during the late evening and early morning remains a policing challenge. Over recent years, there has been a proliferation of off-licences and late night refreshment venues along the city's arterial routes. This has led to incident 'hot spots' where patrons from the night time economy continue to interact, albeit away from any safety measures afforded by on-licences. As such, Sussex Police support the Council's Special Policy in offering guidance to both applicants and the Licensing Committee in relation to off-licences and late night refreshment licences.

4.2.4 Sussex Police have continuing concerns that, despite staff training in age-restricted sales, under age individuals are still being served alcohol both on and off the premises in some of the city's licensed premises. As such, regular intelligence-led 'test-purchase' operations are conducted to highlight premises where sales are taking place and ensure appropriate enforcement action is taken to prevent further sales. The introduction of identification scanning machines at premises throughout the city has proved successful in mitigating some risk, but operators must maintain vigilance regarding the fraudulent use of genuine IDs. Sussex Police continue to work alongside the Business Crime Reduction Partnership to tackle the problem of those who use false or another's identification to enter licensed premises and purchase alcohol.

4.2.5 Sussex Police work closely with venues and other organisations within the city to protect vulnerable people from becoming victims of crime. As well as work to prevent under age sales, vulnerability training is offered to identify persons who may have been made vulnerable through alcohol or drugs. Sussex Police also support initiatives such as (but not limited to) safe spaces, mobile teams of volunteers actively checking people's well-being and the Beach Patrol.

4.2.6 Public Space Protection Orders have proved an effective tool for Sussex Police in targeting enforcement action in problem areas of the city. It 'allows Police Officers and Police Community Support Officers to remove alcohol from any person in a public place if that person is involved in anti-social behaviour (ASB) or the officer believes that by having alcohol in their possession there is an increased risk of ASB. It is an offence to refuse to hand over alcohol when required to do so.' They have been particularly effective in the day time economy where members of the street community are causing ASB issues for members of the public and local businesses, especially during the summer months where there is a large influx of visitors to Brighton & Hove.

4.2.7 Policing the night time economy continues to provide a challenge and in the climate of limited resources and newly emerging problems, Sussex Police support maintaining the council's Special Policy which defines cumulative impact and

special stress and will continue to take enforcement action where appropriate if the actions of a Premises Licence Holder, Designated Premises Supervisor, Door Supervisors or Staff have fallen below the high standard expected across the city. Sussex Police also recognise and support businesses which are aware of their social responsibilities and as such, actively contribute towards keeping Brighton & Hove a safe and enjoyable city.

4.3 Care, control and supervision of premises

4.3.1 The Licensing authority supports the Business Crime Reduction Partnership and other approved schemes. Where appropriate, premises licence holders should be members of the BCRP for the deterrence to violent crime that such membership provides. The BCRP NightSafe radio scheme is normally expected as an operational requirement for city centre bars, clubs and pubs and is an example of good practice in achieving the aim of reducing crime and disorder and improving public safety. Well managed pub-watch schemes provide information exchange between the premises licence holders and responsible authorities that reduce and deter violent crime and disorder. The council will support a responsible licensing scheme.

4.3.2 The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The police will consider the applicants, objecting to the application where appropriate. The police may suggest crime prevention measures in relation to, for example, the internal layout of the premises, closed-circuit television, help points, lighting and security staff. The police may ask for conditions which support such measures to be imposed when licensing applications are granted, eg type of licence, capacity, operating hours restrictions.

4.3.3 Following the grant of a licence, the management and supervision of the premises, in so far as it might impact on crime and disorder, will continue to be monitored. Particular attention will be paid to any licensed premises where there is evidence of criminal activity or any association with racist or homophobic crime. The licensing authority will keep itself well briefed on the nature, location and type of premises where alcohol related violence and disorder are occurring so it can take full account of the facts and avoid exacerbating problems as required by the Community Safety Strategy. Where licensed premises are found to cause nuisance or be associated with disorder or unreasonable disturbance, the review process may be invoked, and powers of revocation or the imposition of conditions may be considered. Conditions may include use of closed-circuit television, licensed door supervisors and earlier closing times. Such action to restrict the operation may be taken for trial periods to allow businesses an opportunity to remedy existing disorder, nuisance or disturbance.

4.3.4 This policy recognises the use of registered Door Supervisors All Door Supervisors will be licensed by the Security Industry Authority. Mobile security units and similar systems are in use by some premises operators as a means of providing security cover at very short notice at premises which may not normally require a permanent security presence. This policy endorses the use of units following such guidance and standards in appropriate circumstances.

4.3.5 The development of codes of practice and general operating standards for security companies is encouraged for local businesses; premises operators are urged to ensure that security services, when engaged, are provided by suitably qualified businesses operating to recognised standards and who should be working towards SIA accreditation.

4.3.6 Enforcement will be achieved by the enforcement policy appended (Appendix B).

5 Public Safety

The following details and measures are intended to address the need for the protection of public safety which may be associated with licensed premises and certificated club premises.

5.1.1 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.

5.1.2 Normally in the city centre, pubs and clubs will be expected to operate using polycarbonate or toughened/shatterproof glass.

5.1.3 Conditions may be imposed in accordance with operating schedules to protect public safety including where justified:

- (a) provision of closed-circuit television and panic buttons.
- (b) use of shatterproof drinking vessels; bottles requiring use of toughened glass or plastic should normally be required unless applicants can show exceptional reasons.
- (c) use of door supervisors, licensed by the Security Industry Authority.
- (d) requirement of a minimum of a licensed door supervisor for every 100 customers in nightclubs and large city centre pubs or as indicated by risk assessment.
- (e) occupant capacity conditions will be applied where appropriate.
- (f) the provision of designated and suitably trained first aiders.

5.1.4 Where appropriate, licence holders or their authorised representatives will submit event safety plans and operating manuals, attend Event Planning Teams or Safety Advisory Groups and similar meetings prior to large events and shall be part of Event Liaison Teams during such events. Due regard shall be had to relevant guidance and publications including, for example: HSE approved code of practice for events

6.2 Smoking Advice

6.2.1 Premises licence holders will be expected to:

- Develop a management plan on how to manage smoking on your premises and ensure that all staff are aware of the contents of this plan, and that it is effectively implemented. Noise from people smoking and talking can be intermittent, vary in character and volume and be intrusive. An effective smoking management plan will help prevent neighbours being disturbed.
- Comply with any planning conditions restricting the use of outdoor areas.
- Ensure that any structures used by smokers comply with the design criteria detailed in the Heath Act 2006 and that any structures, awnings, retractable canopies, etc. have the relevant planning permission.
- Ensure any new lighting to outdoor areas must be designed so as not to cause a light nuisance to neighbours and again have the relevant planning permission and building control consent.
- Ensure that the conditions on the premises licence are complied with. There may be conditions restricting the hours of use of gardens and outdoor areas. Having reviewed the contents of the premises licence you may find it necessary to request a variation of your licence.
- Licence tables and chairs on the Public Highway under the provisions of the Highways Act 1980. These licences may have conditions restricting the times that the area can be used.
- Ensure drinks, glasses and bottles are not taken onto the highway unless there is a tables and chairs licence permitting use. A system should be adopted to prevent theft and 'spiking' of drinks and reminding customers not to leave unattended items.
- Discourage smokers remaining in gardens and outdoor areas and determine terminal hours.
- Discourage smokers remaining outside by removing/disabling tables and chairs or prohibiting their use after a certain time. Lights and heaters will also be turned off.
- Introduce a system that after a certain time the number of smokers outside are restricted to a maximum number. Staff will be needed to manage this restriction.
- Employ staff and/or SIA registered door supervisors to manage doors and control customers and smokers entering and leaving the premises. Staff positioned on the doors can help to encourage customers not to cause a noise problem. It may be that staff are required to manage doors after a certain time, particularly during the hours when neighbouring residents are trying to sleep.
- Ensure door supervisors maintain order outside venues and protect customer safety. BCRP supports the use of Night Safe. Radio net and other pager systems and pub watch schemes can be used to provide for rapid police response and alert other venues where customers and staff are endangered.

- Position signs to remind customers that the premises is in an area where people live. It is not always obvious in busy commercial streets with flats above. By changing the design and wording of signs customers do not forget. Signs can be located in and outside the premises and on tables.
- Use CCTV to manage outside areas.

6.2.2 Licensed premises should normally display prominent, legible signs at exits reminding customers to leave in a quiet, peaceful, orderly manner.

8 Integration of Strategies

8.1.1 The licensing authority shall secure the proper integration of this policy with local crime prevention, planning policy, transport, tourism and cultural strategies by:-

- Liaising and consulting with the Sussex Police, Community Safety Forum, Sustainability Commission representatives and following the guidance in community safety and crime and disorder strategy
- Liaising and consulting with Public and Alcohol Programme Board
- Liaising and consulting with the East Sussex Fire & Rescue Service
- Liaising and consulting with the Local Strategic Partnership, Safety Advisory Group (Emergency Planning) and Equalities and Social Justice Consultation Forum
- Liaising and consulting with the Planning authority
- Liaising and consulting with the Highways authority
- Liaising and consulting with local business and business associations. Having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols
- Liaising and consulting with the Trading Standards Team, for example with regard to test purchasing codes of practice

8.1.2 In line with statutory requirements and the council's Inclusion Policy, the Licensing Authority shall have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and positive relations between persons of diverse backgrounds, for example communities of interest such as: lesbian, gay, bisexual and transgender people; disabled people; racial and ethnic groups; religious and faith groups.

8.1.3 This policy supports the aims of the tourism strategy, recognising the benefits for the tourism economy of creating a safer and more attractive city centre and improving competitiveness with other European cities. The Licensing Committee should receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area to ensure that it considers these matters.

8.1.4 The Licensing Committee should receive relevant information relating to the employment situation of the area and the need for new investment and employment where appropriate.

8.1.5 Specific conditions may be attached to premises licences to reflect local crime

prevention strategies. Such conditions may include the use of closed circuit television cameras, use of the NightSafe radio system or accredited scheme, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening. Certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements listed above.

8.1.6 The licensing authority will have regard to the need to disperse people quickly and safely from the city centre to avoid concentrations which may produce disorder and disturbance.

8.3 Enforcement

8.3.1 The Enforcement of licensing law and inspection of licensed premises is detailed in the Protocol between Sussex Police, the East Sussex Fire & Rescue Service and Brighton & Hove City Council. This protocol reflects the need for more efficient deployment of Police and Local Authority staff commonly engaged in licensing enforcement and can be found at Appendix D (Lead Agency Status) of the Statement of Licensing Policy. In addition, the Licensing Authority will have regard to its published Licensing Enforcement Policy in making enforcement decisions in accordance with Brighton & Hove City Council's Statement of Licensing Policy (Appendix B). In order to better target enforcement resources, inspections will be undertaken outside of normal office hours and the sharing of information between all enforcement agencies will be encouraged through joint meetings or similar arrangements.

8.3.2 Attention is drawn to the targeting of agreed problem and high risk premises requiring greater attention as identified in the protocol. A number of other council and government policies, strategies and guidance documents must be taken into account to complement the policy, including:

- Community Safety & Crime Reduction Strategy
- Drugs and alcohol strategies – local alcohol harm reduction strategy
- Objectives of the Security Industry Authority
- The Anti-Social Behaviour Act 2003/ASBPC Act 2014
- The Health Act 2006
- The Violent Crime Reduction Act 2006
- Policing and Crime Act 2009

APPENDIX A – Licensing Best Practice Measures

Best Practice Measures to be included for consideration, in particular in SSA:
Matters that would normally be expected in operating schedules:

- the adoption of a policy (e.g. Challenge 25) with acceptable proof of ID as per existing Statement of Licensing Policy
- all off sales to be made in sealed containers for consumption away from the premises
- a smoking policy which includes an assessment of noise and litter created by premises users
- the use of plastic or polycarbonate drinking vessels and containers, especially in outside areas or after specified hours

- a policy in relation to searching customers and for drugs, weapons, seized or lost and found property
- use of a refusals book for registering attempts to buy alcohol by under-age persons or refusals to those intoxicated
- the installation of a digital CCTV system by liaison with, and to a standard approved by, Sussex Police
- policies for dispersal of customers which may include signage regarding taxi services' telephone numbers and advice to respect neighbours and minimize noise

Items to which positive consideration would be given:

- membership of Business Crime Reduction Partnership, Pubwatch, Neighbourhood Watch or similar schemes
- use of 'Night Safe' radio system or similar accredited scheme
- regular training and reminders for staff in respect of licensing legislation, policies and procedures; records of which should be properly recorded and available for inspection
- records of regular checks of all parts of the premises in relation to drug use
- systems in place to ensure details of barred clients are exchanged with other operators
- giving an agreed minimum notice of special events (screening of major sports events, birthday parties, adult entertainment, etc.) to relevant authorities and use of appropriate additional measures at such events

Recommend best practice for both on and off premises

- Staff must be aware of the risk of the problem of proxy sales and offer assistance to responsible authorities to deter offences
- Signage on premises should set out legal duties
- Voluntary restriction of high strength alcohol – operating schedules may be used to limit high ABV beers and ciders
- Staff training – in addition to personal licence holders training, staff must be adequately trained for duties
- Challenge 25 would be the norm, particularly in the off licence trade
- Signage – proxy sale – deterrence

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The Licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime.

Finance Officer Consulted Michael Bentley

Date:

Legal Implications:

5.2 The licensing authority must act to promote the four licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The licensing authority must have regard to its statement of licensing policy and the guidance issued by the Secretary of State in carrying out its functions.

Lawyer Consulted: Rebecca Sidell

Date: 12/01/24

Equalities Implications:

5.3 Diversity is valued and strong, safe communities are vital to future prosperity. Licensing policy aims to protect children from harm including sale and supply of alcohol to children.

Sustainability Implications:

5.4 Licensing policy aims to prevent public nuisance and develop culture of live music, dancing and theatre.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A – Section 16 (Operating Schedule)
2. Appendix B – New Plan of Premises
3. Appendix C – Part A of existing Premises Licence
4. Appendix D – Representations
5. Appendix E – Map of area

Documents in Members' Rooms

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2021.

Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003, December 2023.

Public Health Framework for Assessing Alcohol Licensing – January 2022.

Background Documents

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2021.

Appendix A

Section 16 of 18

LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

1. Authorised staff employed by Sussex Police in the role of licensing officer shall have the right of access to the licensed premises during hours of operation for the purpose of inspection of the premises and premises records in order to ensure the promotion of the licensing objectives.
- 2.a) Intoxicating liquor shall not be supplied or sold or supplied on the premises otherwise to persons taking table meals there and for the consumption by such a person as an ancillary to their meal only.
3. Suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the premises by waiter/waitress only.
4. Any outside area as shown on the plans will be subject to approval for use by the lease holder or relevant pavement and chairs licence. Should the termination time of use on any outside area licence be early then that stated within the permitted times on this licence, the earlier times will apply.

b) The prevention of crime and disorder

4. 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 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) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
- f) 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.
- g) Any breakdown or system failure will be notified to the police immediately and remedied as soon as practicable.
- h) 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.
5. a) An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week.

Continued from previous page...

b) The logbook 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.

c) Any refusals made for alcohol service e.g. underage, will be recorded (either in electronic or written form) and feedback given to staff as relevant. The log will be kept for a minimum of twenty-four (24) months.

6. 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.

c) Public safety

d) The prevention of public nuisance

7. Provide signage at all exits and outdoor area used for smoking by staff and patrons "Please respect the needs of local residents, including leaving quickly and quietly; do not disturb the neighbours"

8. That the placing of refuse, such as bottles into receptacles outside the premises takes place no later than 21-00hrs and no earlier than 07-00hrs.

9. Keep the premises and immediate vicinity free from litter at all times, including at close of trading.

e) The protection of children from harm

10. 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. 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 licenses with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram.

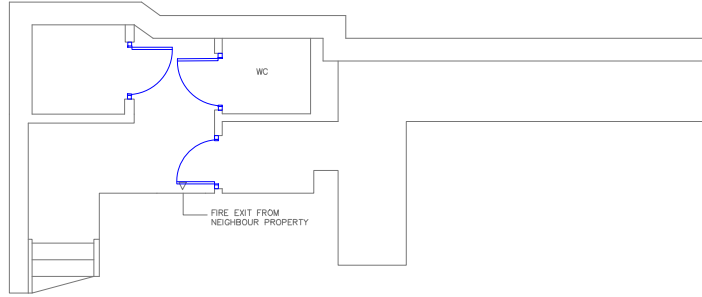
11. Signage advertising the 'Challenge 25' policy will be displayed in prominent locations in the premises.

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

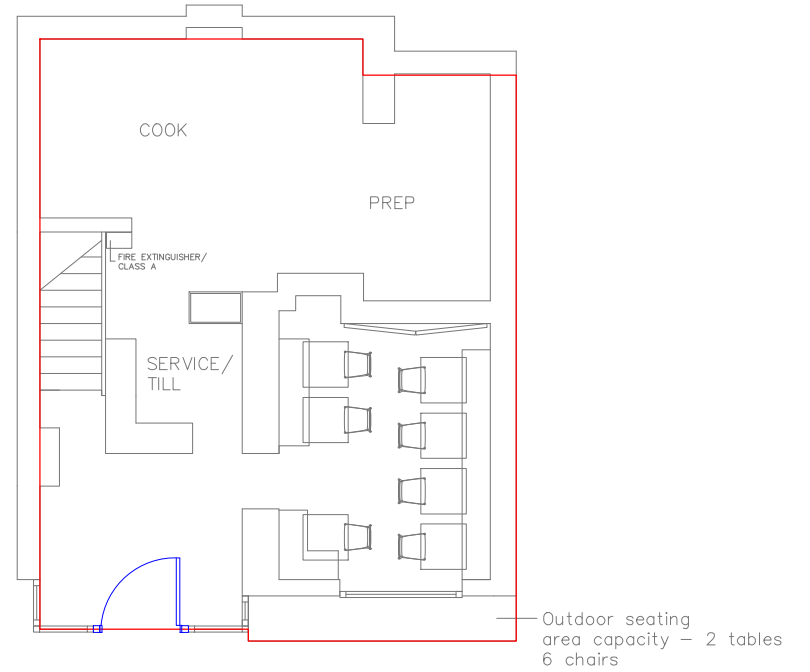
- The lawful selling of age restricted products
- Refusing the sale of alcohol to a person who is drunk

b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 8 weeks, with the date and time of the verbal reinforcement/refresher training documented.

c) 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.



BASEMENT PLAN



GROUND FLOOR PLAN



Brighton & Hove City Council

Appendix C Schedule 12 Part A

Regulation 33, 34

Premises Licence Brighton and Hove City Council

Premises Licence Number

1445/3/2022/03786/LAPRET

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Lokum Kitchen
89 St James's Street
Brighton
BN2 1TP

Telephone number 01273 688111

Licensable activities authorised by the licence

Performance of Recorded Music
Late Night Refreshment

Times the licence authorises the carrying out of licensable activities:

Performance of Recorded Music

Monday - Thursday 12:00 - 01:00
Friday - Saturday 12:00 - 03:00
Sunday 12:00 - 00:00

Late Night Refreshment



Brighton & Hove City Council

Monday - Thursday	23:00 - 01:00	
Friday - Saturday	23:00 - 03:00	
Sunday		23:00 - 00:00

The opening hours of the premises		
Monday - Thursday	12:00 - 01:00	
Friday - Saturday	12:00 - 03:00	
Sunday	12:00 - 00:00	

Where the licence authorises supplies of alcohol whether these are on and / or off supplies
N/A

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

REDACTED

Registered number of holder, for example company number, charity number (where applicable) -

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol
N/A

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol
N/A



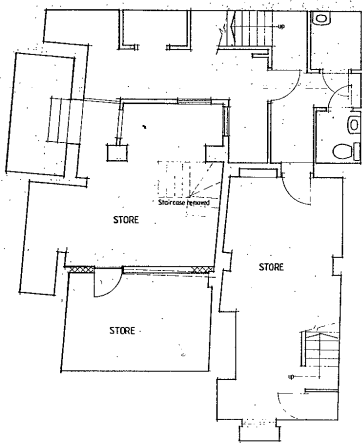
Brighton & Hove City Council

Annex 1 – Mandatory conditions – N/A

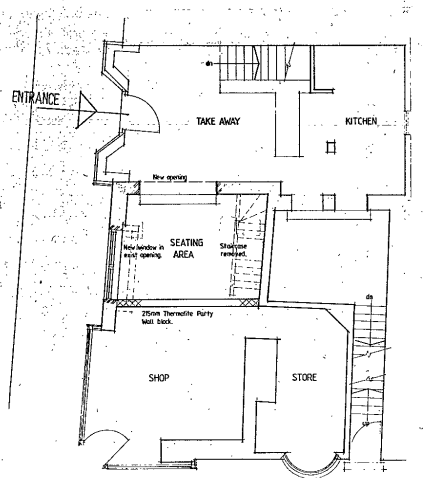
Annex 2 – Conditions consistent with the Operating Schedule – N/A

Annex 3 – Conditions attached after a hearing by the licensing authority – N/A

Annex 4 – Plans



BASEMENT



GROUND FLOOR

Existing Plans for Licensing

For the
GROUND FLOOR and BASEMENT
At
89-90 St.James's Street: Brighton

August 2005

scale: 1/100

Appendix D

REP A

Police Station

John Street

Brighton

BN2 0LA

Tel: 01273 404535 ext REDACTED

Email: brighton.licensing@sussex.police.uk

EF CON ENDS 28.12.2023 VALID PCD, PS and CIZ (A)

19th December 2023

The Licensing Technical Support Officers Environmental Health, Brighton & Hove City Council
Bartholomew House, Bartholomew Square Brighton, East Sussex BN1 1JP

Dear Emily Fountain,

RE: APPLICATION FOR A VARIATION OF THE PREMISES LICENCE FOR MONA LISA, 89 ST JAMES'S STREET, BRIGHTON, EAST SUSSEX, BN2 1TP UNDER THE LICENSING ACT 2003. 1445/3/2023/04505/LAPREV.

I write on behalf of the Chief Officer of Police for Sussex to raise a representation against the grant of the above application on the grounds that it will undermine the Licensing Objectives of the prevention of crime and disorder and public safety. We also make reference to the Brighton & Hove City Council (BHCC) Statement of Licensing Policy (revised January 2021) and the Revised Guidance issued under section 182 of the Licensing Act 2003 (August 2023).

This is a proposed variation application in an area of the City which is subject to a Special Policy adopted by Brighton & Hove City Council. The premises lies in the Cumulative Impact Zone (CIZ) (as defined in the BHCC Statement of Licensing Policy) which paragraph 3.1.3 states:

'The licensing authority, after careful consideration, has determined that the concentration of licensed premises in an area of the city centre is causing problems of crime and disorder and public nuisance, and that therefore an approach to 'Cumulative Impact' is necessary as part of its statement of licensing policy.'

The variation seeks to amend timings on the licence and add the sale by retail of alcohol 'on' the premises to essentially make this a 'split licence'. The intention being for the premises to operate as a seated restaurant until 00:00 and then a late night takeaway using the existing hours (Monday – Thursday until 01:00, Friday – Saturday until 03:00 and Sunday until 00:00).

The 'Cumulative Impact Zone' is covered by special policy and paragraph 3.1.6 provides that:

The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licences or club premises certificates within the area, or variations which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative

Cumulative Impact.'

Paragraph 14.40 of the Secretary of State's Guidance to the Licensing Act 2003 (August 2023) provides:

'In publishing a CIA a licensing authority is setting down a strong statement of intent about its approach to considering applications for the grant or variation of premises licences or club premises certificates in the area described....Applications in areas covered by a CIA should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives.'

The applicant did pre consult with Sussex Police prior to the submission of this variation and were advised of Police concerns around the addition of more alcohol availability in St James's Street. They have not made any specific reference to potential cumulative impact issues or how the operator will look to mitigate any potential additional harm.

When reviewing an application, consideration is taken regarding the premises location and to establish if this area attracts problems relating to crime and disorder. Sussex Police believe St James's Street, Brighton falls within this area of concern. There are regular incidents occurring within the locality requiring police attendance. It is an area that attracts street drinking and drug related offences and while these incidents are spread throughout the day and into the early hours, they could have an impact on the type of business being considered.

Notably, the area of St James's Street has been adopted as a Problem Profile in 2023 with specific Police resources assigned to problem solving but has seen issues around crime and alcohol for a number of years. This is evidenced by the Brighton & Hove Public Health Framework for Assessing Alcohol Licensing (found at:

<https://public.tableau.com/app/profile/brightonhovepublichealthintelligence/viz/PublicHealthFrameworkforAssessingAlcoholLicensing/NavigationPage>). It also shows that 89 St James's Street lies within Queen's Park Ward, a ward that is ranked number 1 for A&E attendances with a record of alcohol (aged 15-59) and number 2 for Criminal damage and Increasing risk or higher risk drinking. Additionally, it is ranked number 3 for All injury violence, All violence against the person, Non-injury assault, Police recorded alcohol related incidents and Sexual offences. This demonstrates the higher risk to the Licensing Objective of the Prevention of Crime and Disorder in this area.

The application is consequently at risk of undermining the prevention of crime & disorder and public safety Licensing Objectives. Furthermore, Sussex Police contend that the carrying on of additional licensable activity by amending the licence to add the sale of alcohol, will add to the existing negative cumulative effect in an area already saturated with licensed premises. There are significant concerns and challenges in the St James's Street area which Sussex Police do not believe can be mitigated.

Therefore, Sussex Police invite the Licensing Authority to seriously consider refusing this application.

Yours sincerely,

REDACTED

Insp Mark Redbourn

Operations (inc. Licensing) Chief Inspector

Brighton & Hove Division Sussex Police

Police Breach Letter Received 02.01.2024.



Sussex Police
Serving Sussex
www.sussex.police.uk

Brighton & Hove Licensing Unit

Police Station John Street Brighton BN2 0LA

Tel: 01273 404535 ext. REDACTED

Email: brighton.licensing@sussex.police.uk

Tuesday 2nd January 2024

REDACTED Mona Lisa
89 St James Street Brighton
BN2 1TP

Dear REDACTED,

Licensing Act 2003 – Unauthorised licensable activities.

RE: Mona Lisa, 89 St James Street.

I attended Mona Lisa at 0015 hrs on Monday 1st January 2024. This was to check that the premises was closed as the Late Night Refreshment Licence only allows licensable activity till Midnight on a Sunday and states that the premises should close at midnight on a Sunday.

When I entered there was a male in the premises and it was confirmed that he had ordered food which was being prepared. I spoke to a male behind the counter who was preparing the food, and when I told them that the premises should be closed I was told that he knew they should close at midnight but were serving this male as he was a valued special customer.

I must inform you that non-compliance with licence permissions and conditions constitutes a breach of the Premises Licence issued under the above legislation. It is an offence under the Licensing Act 2003, S136(1) and (4) to carry on unauthorised licensable activities. The legislation states that: -

(1) A person commits an offence if –

(a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or

(b) he knowingly allows a licensable activity to be carried on.

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine, or to both.

Selling hot food and being open outside of the licensable hours would constitute unauthorised licensable activity, and this letter is official notice that a breach of the Premises Licence has been recorded. Any further breaches may result in enforcement action being taken, including review of the premises licence.

Brighton and Hove Council Licensing have been informed of the breach and may wish to take their own enforcement action.

If there are any matters within this letter that you wish to discuss, then please do not hesitate to contact Police Licensing via the email address above.

Yours sincerely,

PC Andre Bernascone Licensing Police Officer Brighton & Hove Division

c.c Brighton & Hove City Council Licensing Team.

REP B

Emily Fountain
Licensing Authority
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BN1 1JP

Date: 20 December 2023
Our Ref: 2023/02825/LICPRM/EH
Phone: 01273 292494
e-mail: REDACTED

Dear Emily Fountain

EF CON ENDS 28.12.2023 VALID PCD, CIZ (B)

Licensing Act 2003

**Representation to the application for a Variation of a Premises Licence -
2023/04505/LAPREV Mona Lisa, 89 St James's Street, Brighton BN2 1TP**

I write to make a representation on behalf of the Council's Licensing Team, in their capacity as a responsible authority, in relation to the above application to vary a Premises Licence submitted by 89 St James's Street, Brighton.

This representation is made as the Licensing Team have concerns that the application could have a negative impact on the licensing objective of prevention of crime and disorder. I also refer to the Special Policy on Cumulative Impact (SPCI) contained within the Council's Statement of Licensing Policy (SoLP).

This premises falls within the Licensing Authority's Cumulative Impact Area (CIZ), which was adopted to give greater power to control the number of licensed premises within the city's centre. The SPCI was introduced because the Licensing Authority determined that the concentration of licensed premises and the subsequent numbers of people drawn into the city centre is causing exceptional problems of crime and disorder and public nuisance.

The effect of the SPCI is that applications for variations of premises licences, which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. The applicant can rebut this presumption of refusal if they can show that their variation application will have no negative cumulative impact on licensing objectives, including prevention of crime and disorder and public nuisance.

Guidance issued under S182 of the Licensing Act 2003 (December 2023) states in paragraph 8.41 that in completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. The guidance goes on to say in paragraph 8.43 that applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, Cumulative Impact Zone (CIZ)), applicants are also expected to demonstrate an understanding of how the policy impacts on their application, any measures they will take to mitigate the impact, and why they consider the application should be an exception to the policy.

During Pride 2022, the premises were open and carrying out unauthorised licensable activities as they had not transferred the premises licence. The premises licence was also suspended due to the annual fees not being paid. The applicant was aware of this; however, they continued to operate without a valid premises licence.

Also, since taking over the premises, the Environmental Protection team have received noise complaints, however, these had not been substantiated.

The applicant did pre-consult with the Licensing Authority prior to submitting this application.

We advised that an application for a Restaurant, would possibly fall within Policy. However, Late Night Refreshment with the current terminal hour would not. As St James's Street already has a very high saturation of licensed venues, an application of this nature, would be against our Statement of Licensing Policy. And as such, the Licensing Team would not be able to support such an application.

On looking at the application form, particularly section 16 (licensing objectives), the applicant has not addressed the premises location within the CIZ, has not offered any mitigation or explanation regarding the potential impact might have and has not demonstrated how the application is an exception to our policy.

The Licensing Authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its SPCI in the light of the individual circumstances of the case.

The Council's Statement of Licensing Policy also includes a Matrix approach for licensing decisions with provisions for a terminal hour for all classes of licensed premises in a particular area. The Matrix Model recognises the diverse operation and different risks presented by different classes of licensed premises. It provides a vision of what the licensing authority would like to see within its area and gives an indication of likelihood of success or otherwise to investors and local businesses making applications.

In regard to the Matrix policy, I can again not see any offered exceptional circumstances for departing from the Matrix policy, where it clearly indicates that 'late night refreshment' in the CIZ should not be granted. The Licensing Team contend that the Matrix policy relates to both new and variation applications, so this also means that later hours would not be granted to existing 'late night refreshment' licence. Again, the Matrix policy can be departed from where exceptional circumstances are demonstrated, but the applicant has failed to address this.

The Licensing Team make this representation to uphold our Statement of Licensing Policy. Adding alcohol to the existing premises licence is likely to add additional burdens and problems to the already challenging area and I do not believe that the applicant has demonstrated that there are exceptional circumstances to justify departing from the Policy. I therefore ask that this application is refused.

Yours sincerely
REDACTED

Donna Lynsdale
Licensing Officer
Licensing Team

Licensing Team Copy of email dated 5 January 2024 detailing breaches of premises licence.

From: Donna Lynsdale

Sent: Friday, January 5, 2024 12:08 PM

To: REDACTED

Cc: REDACTED Brighton.Licensing@sussex.police.uk

Subject: The Mona Lisa, 89 St James's Street, Brighton, BN2 1TP - 2023/02825/LICPRM/EH

Importance: High

Dear REDACTED

Licensing Act 2003

Mona Lisa, 89 St James's Street, Brighton BN2 1TP

Premises Licence Number: 1445/3/2022/03786/LAPRET

I am writing to you in your capacity as the Premises Licence Holder (PLH) for the above premises.

I have been informed by Sussex Police that a visit was carried out to your premises on Monday, 1 January 2024 at 00:15.

At time of this visit, you were open and trading and carrying out licensable activities past your permitted terminal hour.

Your premises licence states:

Times the licence authorises the carrying out of licensable activities:

Late Night Refreshment

Monday - Thursday	23:00 - 01:00
Friday - Saturday	23:00 - 03:00
Sunday	23:00 - 00:00

I remind you that non-compliance with conditions constitutes a breach of the Premises Licence issued under the above legislation. Please ensure that all conditions on the licence are adhered to. It is an offence under the Licensing Act 2003, S136(1) and (4) to carry on unauthorised licensable activities. The legislation states that:-

(1) A Person commits an offence if –

- (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or
 - (b) he knowingly allows a licensable activity to be carried on.
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to an unlimited fine, or to both.

Please be aware that any enforcement action is taken in line with our Licensing Enforcement Policy. You are also reminded that at any stage, following the grant of a premises licence, a responsible authority, such as the Police, Environmental Health, or an interested party such as a resident living in the vicinity of the premises, may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

In light of the above information, I am issuing you with a **Warning** in accordance with our Licensing Enforcement Policy.

Police Licensing have been copied into this email.

Please acknowledge receipt of this email. When responding please reply to all.

Regards

Donna Lynsdale | Fair Trading Officer & Licensing Officer (Trading Standards & Licensing),
Safer Communities
Brighton & Hove City Council, 2nd Floor, Barts House, Barts Square, BN1 1JP
T REDACTED | [REDACTED](#)

Our customer promise to you

We will make it clear how you can contact or access our services | We will understand and get things done | We will be clear and treat you with respect

Appendix E



