

Licensing Panel (Licensing Act 2003 Functions)

Date: **24 April 2024**

Time: **10.00am**

Venue **Virtual**

Members: **Councillors: Cattell, Hewitt and Pickett**

Contact: **Niall Breen
Democratic Services Apprentice**

01273 291077
niall.breen@brighton-hove.gov.uk

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk.
Agendas are available to view five working days prior to the meeting date.

Electronic agendas can also be accessed through our meetings app available through
ModernGov: [iOS/Windows/Android](#)

This agenda and all accompanying reports are printed on recycled paper

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 LEYA MARKET LICENSING PANEL REPORT (LICENSING ACT 2003 FUNCTIONS)

7 - 50

Contact Officer: Corinne Hardcastle
Ward Affected: West Hill & North Laine

Tel: 0127329

Date of Publication - Tuesday, 16 April 2024

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fourth working day before the meeting.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

Infra-red hearing aids are available for use during the meeting. If you require any further information or assistance, please contact the receptionist on arrival.

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

WEBCASTING NOTICE

This meeting may be filmed for live or subsequent broadcast via the Council's website. At the start of the meeting the Chair will confirm if all or part of the meeting is being filmed. You should be aware that the Council is a Data Controller under the Data Protection Act 1998. Data collected during this web cast will be retained in accordance with the Council's published policy.

Therefore, by entering the meeting room and using the seats in the chamber you are deemed to be consenting to being filmed and to the possible use of those images and sound recordings for the purpose of web casting and/or Member training. If members of the public do not wish to have their image captured, they should sit in the public gallery area.

ACCESS NOTICE

The Public Gallery is situated on the first floor of the Town Hall and is limited in size but does have 2 spaces designated for wheelchair users. The lift cannot be used in an emergency. Evac Chairs are available for self-transfer and you are requested to inform Reception prior to going up to the Public Gallery. **For your own safety please do not go beyond the Ground Floor if you are unable to use the stairs.**

Please inform staff on Reception of this affects you so that you can be directed to the Council Chamber where you can watch the meeting or if you need to take part in the proceedings e.g. because you have submitted a public question.

FIRE / EMERGENCY EVACUATION PROCEDURE

If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by council staff. It is vital that you follow their instructions:

- You should proceed calmly; do not run and do not use the lifts;
- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and
- Do not re-enter the building until told that it is safe to do so.

Licensing Panel (Licensing Act 2003 Functions)

Brighton & Hove City Council

Subject:	Application for a New Premises Licence under the Licensing Act 2003		
Premises:	Leya Market 28 Queens Road Brighton BN1 3XA		
Applicant:	H Rhythm Limited		
Date of Meeting:	24th April 2024		
Report of:	Executive Director of City Services		
Contact Officer:	Name:	Sarah Cornell	Tel: (01273) 295801
	Email:	sarah.cornell@brighton-hove.gov.uk	
Ward(s) affected:	West Hill & North Laine		

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for Leya Market

2. RECOMMENDATIONS:

- 2.1 That the Panel determine an application for a New Premises Licence under the Licensing Act 2003 for Leya Market.

3. CONTEXT/BACKGROUND INFORMATION & CONSULTATION

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

Convenience store providing a range of groceries

- 3.2 Part M (Operating Schedule) of the application is detailed at Appendix A and the plan of the premises is attached at Appendix B

- 3.3 Summary table of proposed activities

	Proposed
Supply of Alcohol	Every day: 09:00 – 23:00 Off the Premises
Hours premises are open to public	Every day: 09:00 – 23:00

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

Representations received

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

2 representations were received. They were received from Sussex Police, Licensing & Trading Standards Team.

Representations received had concerns relating to Prevention of Crime & Disorder, Prevention of Public Nuisance, Protection of Children from Harm and Cumulative Impact,

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

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.

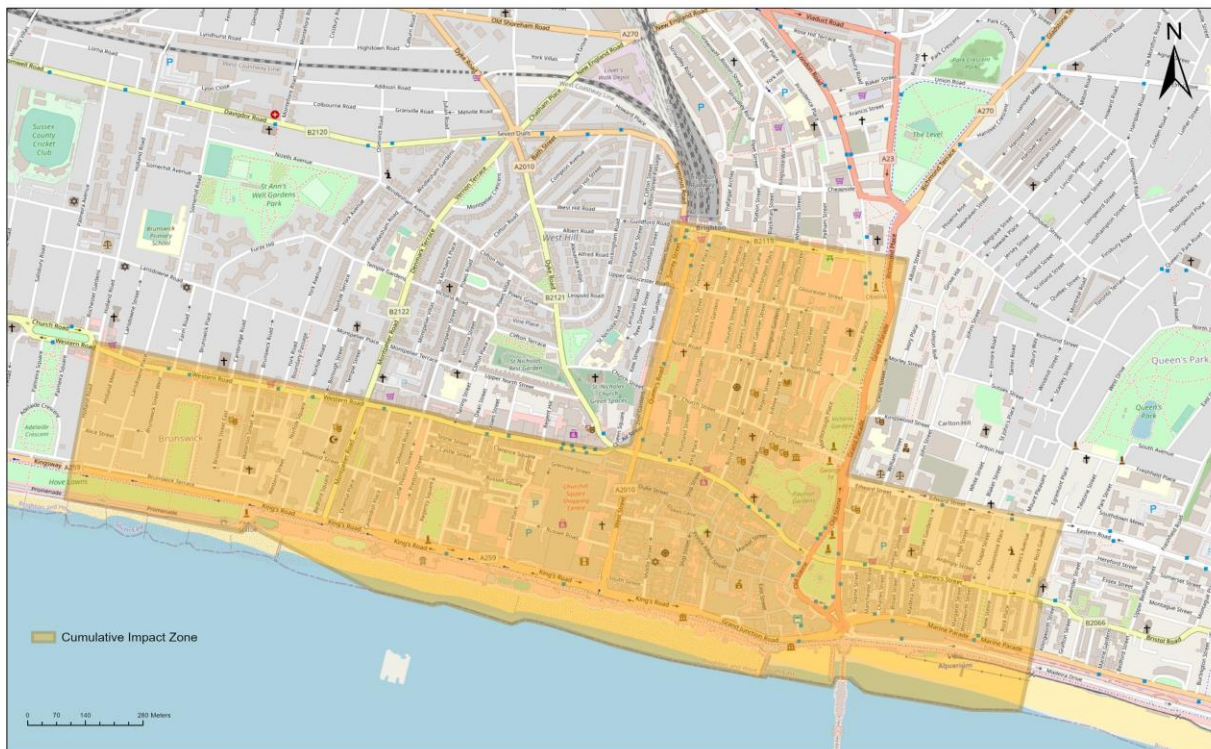
3.1.2 **Special Policy** - Cumulative Impact is defined as the potential impact upon the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

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
 © OpenStreetMap (and) contributors, CC-BY-SA © Crown Copyright. All rights reserved. Licence: 100020999. Brighton & Hove City Council. 2019. Cities Revealed © 2018

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.

3.5 Off licences

In recent years there has been a noticeable shift towards more people buying alcohol from shops and drinking at home prior to going into premises such as pubs and clubs. The council is concerned that alcohol loading from off-licence sales is a significant problem in the city and adversely affects the licensing objectives as it gives rise to problems of drunkenness, disorderly behaviour and a higher risk of alcohol sales to children. Representations from the police, local residents and the director of public health at licensing panel hearings have testified to these problems and Information published in the Public Health Framework for assessing alcohol licensing presents a ward by ward analysis of crime and disorder and health data which is relevant in this respect.

3.5.1 The special policy on cumulative impact and the special stress areas apply to off licences as explained in the matrix approach at 3.3. But in general, where applications are made for new premises or variations to existing licences, and where the police or others make representations against the grant of a further licence for off sales, the council will give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption off the premises. Decisions will be grounded in the Public Health Framework for assessing alcohol licensing. The council will want to be assured that the operating schedule of premises, and their overall management, training and levels of staffing, are appropriate to ensure that the licensing objectives are promoted in what may be challenging circumstances. Retail outlets and stores where the provision of fresh produce is the principal product sold may be considered more favourably.

3.5.2 The Licensing Authority encourage off licences to join the Council led “Sensible on Strength” scheme to reduce the availability of cheap super strength beers and ciders. Off licences voluntarily sign up not to sell cheap super-strength beers and ciders over 6% ABV and operate good practice measures (see 3.5.3) for which they receive an accreditation as a responsible retailer.

3.5.3 Areas of best practice that may be included in an Operating Schedule include

- the installation of a digital CCTV system by liaison with, and to a standard approved by Sussex Police
- Challenge 25 policy
- Refusals system
- Documented staff training including underage sales, drunkenness and proxy sales
- Voluntary restriction of high strength alcohol - operating schedules may be used to limit high ABV beers and ciders
- BCRP membership (or other accredited scheme)
- No sale of single cans
- Displays should not be located at the entrance/exit points or near checks out

3.5.4 The Licensing Authority and Sussex Police have specific concerns around the delivery of alcohol off the premises due to issues around the end location of delivery, age verification checks (Challenge 25), the increased possibility of the alcohol coming into the CIZ and SSA from other areas, as well as the personal safety of drivers when having to refuse a delivery at the end destination.

3.5.5 Alcohol delivery poses a unique set of challenges as it often transfers the final age verification to a person who has no responsibility in relation to the Premises Licence which authorised the sale of alcohol. A premises licence holder needs to be satisfied that their drivers or the delivery drivers of the third party company they chose to use, have received regular and comprehensive training in age verification and identifying persons who have consumed too much alcohol.

3.5.6 Evidence has shown that customers have previously used landmarks/businesses not related to them as addresses for delivery so that alcohol could be consumed in open spaces/parks. The risk being that this may lead to increased crime and disorder including anti-social behaviour and criminal damage, as well as the possibility that underage persons can gain access to alcohol. Concerns have also been raised about the delivery of alcohol to known street drinking hotspots.

Therefore, a condition requiring all deliveries to be to a verifiable residential or business address and a face to face ID verification is vital in mitigating some of this risk.

3.5.7 While the Licensing Authority and Sussex Police recognise this is a growing area of business, new or variation applications to include the delivery of alcohol off the premises will be subject to increased scrutiny. Suggested conditions for the provision of an alcohol delivery service can be found at Appendix A. These are not exhaustive and each application will be considered on its own merits.

3.6 Street drinking

3.6.1 The Licensing Authority will have regard to areas highlighted by Sussex Police that are at risk from alcohol related anti-social behaviour. The nature of these areas can be fluid/seasonal and so updated maps and data will be produced regularly to ensure the information is current. These hot spot areas are considered high risk for street drinkers and the Licensing Authority will have regard to prevention of crime and disorder by virtue of street drinking and anti-social behaviour when considering applications in this area.

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.

5.1.3 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.

6 Prevention of Public Nuisance

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

premises:

6.1.1 In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, as a result of people entering or leaving the premises or from individuals or groups of customers gathered outside (eg in order to smoke).

6.1.5 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.

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

7 Protection of Children from Harm

The following details and measures are intended to address the need for the protection of children from harm; this includes emotional and physical harm which may be associated with licensed premises and certificated club premises (for example the exposure too early to strong language and sexual expletives, eg in the context of film exhibitions or where adult entertainment is provided). It is intended that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed without restricting conditions (unless the 2003 Act itself imposes such conditions or there are good reasons to restrict entry or to exclude children completely).

7.1.1 Licensees should note the concern of the authority that drink related disorder frequently involves under 18's. To prevent illegal purchases of alcohol by such persons, all licensees should work with a suitable 'proof of age' scheme and ensure that appropriate identification is requested prior to entry and when requesting alcohol, where appropriate. Appropriate forms of identification are currently considered to be those recommended by police, trading standards officers and their partners in the Licensing Strategy Group (eg passport, photo driving licence or pass card).

7.1.2 It is the licensing authority's expectation that all staff responsible for the sale of intoxicating liquor receive information and advice on the licensing laws relating to children and young persons in licensed premises. Licensed premises staff are required to take reasonable steps to prevent under age sales. The licensing authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of emotional or psychological harm to them. Each application will be considered on its own merit but particular areas that will give rise to concern in respect of children are to be found in section 7.1.4 below.

7.1.3 To reduce alcohol-induced problematic behaviour by under 18 year olds, to enforce underage purchase and drinking laws and to assist in the protection of children from harm, the licensing authority supports the following measures:-

- a) Police should exercise powers (Confiscation of Alcohol (Young Persons) Act 1997) to remove alcohol from young people on the street
- b) Police and trading standards should implement test purchasing to reduce sales to under 18s in on and off sales licensed premises
- c) Further take-up of proof of age schemes will be promoted
- d) In-house, mystery shopper type schemes operated by local businesses will be supported
- e) Providers of events specifically catering for unaccompanied children should consider whether all staff at such events need to be DBS checked

7.1.4 The licensing authority will not seek to require that access to any premises is given to children at all times – under normal circumstances this will be left to the discretion of the licensee. The following areas give rise to concern in respect of children, who will normally be excluded from premises:

- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking.
- with a known association with drug taking or dealing.
- where there is a strong element of gambling on the premises.
- where entertainment of an adult or sexual nature is commonly provided.
- where premises are used primarily or exclusively for the sale and consumption of alcohol and there is little or no seating for patrons.

Options may include:

- limitations on the hours when children may be present.
- age limitations (below 18).
- limitations or exclusions when certain activities are taking place.
- requirements for an accompanying adult.
- full exclusion of people under 18.

7.1.7 Trading standards and the police undertake ongoing enforcement operations around under-age sales and test purchasing. Sussex Police and BCRP undertake work concerning proxy purchases and counterfeit ID as part of the partnership support work with Community Safety and Trading Standards.

7.1.8 Trading standards have a programme of business support including training for local businesses to avoid under-age sales.

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

10.1.2 The Licensing Committee represents the general interests of a community in determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives. All members of the Licensing Committee will be trained on Licensing Act 2003 and S182 Guidance. The Licensing authority is aware of the need to avoid measures which deter live music, dancing and theatre - such as imposing indirect costs out of proportion to the income of the licence holder and to the risks presented. Only appropriate, proportionate and reasonable licensing conditions should impose any restrictions on such events.

10.1.3 The licensing committee will support the cultural zones, outdoor eating areas, food led operations, community pubs, live entertainment and protect living conditions in mixed use areas.

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: 12/04/24

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: 12/04/24

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 – Part M Operating Schedule
2. Appendix B – Plan of Premises
3. Appendix C – Representations
4. 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.

M

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

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)

We recognise that our premises is located in Brighton & Hove's cumulative impact zone (CIZ) and as such is subject to licensing policy 3.1. We believe, however, that this application should be an exception to the CI policy for the following reasons.

The premises is a convenience store. The very term 'convenience' confirms that the expectation of customers is that they will be able to purchase all their food and drink items in one place. Customers are no longer happy to buy meat in a butcher's, bread in a bakery, vegetables in a greengrocer's and alcohol in an off licence: they expect to be able to purchase all such items in one place for their *convenience*. Convenience stores which do not offer an alcohol option are therefore at a business disadvantage and will therefore be more likely to succumb to local competition as customer loyalty will transfer to other premises which offer purchasing *convenience*. In short, the success of any convenience store is its ability to provide a wide selection of grocery and household items which necessarily includes the sale of alcohol.

As previously mentioned, this premises is **not** a specialist off licence. As such, and further to licensing policy 3.1.9, alcohol will comprise only 10% of the shop's overall stock provision thus confirming alcohol sales are not the premises' primary activity. Given the small percentage of alcohol stock available we do not anticipate that our shop will become a destination for individuals seeking to buy alcohol on its own. Our expectation is that the majority of alcohol purchases will form part of customers' larger grocery shop. This serves to address the concerns detailed in licensing policy 3.1.7.

In response to the best practice approach indicated at licensing policy 3.5.3 our operating schedule addresses these concerns. Robust proposals detailed below are designed to comply with and address the concerns outlined in licensing policy 3.5.3.

We are confident that the matters detailed above and the robust proposals which follow demonstrate our commitment to promoting the licensing objectives thus mitigating any potentially adverse impact upon cumulative impact. We hope that the licensing authority recognises that small businesses form a vital part of Brighton & Hove's overall economy. Small businesses bring prosperity to the city by attracting visitors and serving the local community.

We contend, therefore, that this application should be considered an exception to Brighton & Hove's CI policy and we respectfully urge all relevant parties to support, rather than oppose, our application.

-----o0o-----

1 All staff shall be suitably trained for their job function for the premises. Such training shall include alcohol awareness. All new staff shall be trained within two weeks of commencing employment. The training shall be written into a programme ongoing and under constant review and shall be made available to a relevant responsible authority when called upon.

b) The prevention of crime and disorder

2 A properly specified and fully operational CCTV recording system shall be installed, operated and maintained to the satisfaction of Sussex Police and the licensing authority. The CCTV system shall incorporate a camera covering each of the entrance doors and shall be capable of providing an image which is regarded as *identification standard* of all persons entering and/or leaving the premises. The CCTV system shall be in

operation at the premises at all times when the premises are used for the provision of licensable activity. All CCTV recordings shall be securely stored for a minimum of thirty-one days. A staff member from the premises who can operate the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested. Signage indicating that a CCTV recording system is in operation shall be displayed prominently in the premises.

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

4 A premises incident book shall be kept at the premises. This book shall be maintained and kept for a rolling period of 12 months. The incident book shall record all incidents which may have occurred which are relevant to the supply of alcohol and the promotion of the licensing objectives. Such incidents shall include, but not be limited to, complaints made to the premises alleging nuisance or anti-social behaviour by persons attending or leaving the premises and all refusals to sell alcohol. The incident book shall be readily available for inspection by an authorised person upon reasonable request.

5 All drinks promotions shall be risk-assessed to ensure the promotion is not irresponsible. Each risk-assessment shall consider the nature of the premises, the nature of the promotion including the size and duration of any discount and the type of customer potentially attracted by the promotion.

6 High-strength lagers, beers and ciders, i.e. those with an ABV above 6.0%, shall not be sold at the premises.

7 Alcohol shall not be placed on display close to the exit door.

8 All spirits shall be restricted from direct public access.

9 All cans of beer, lager and cider in containers containing less than 500ml shall not be sold in single cans. A multipack containing a minimum of four cans shall be the only permitted purchase method.

10 The premises licence holder shall become a member of the Brighton & Hove Business Crime Reduction Partnership (BCRP) or other suitably accredited scheme where appropriate.

c) Public safety

11 All exit routes and public areas shall be kept unobstructed, shall have non-slippery and even surfaces, shall be free of trip hazards and shall be clearly signed.

12 No accumulation of combustible rubbish, dirt, surplus material or stored goods shall be permitted to remain in any part of the premises except in an appropriate place and of such quantities so as not to cause a nuisance, obstruction or other safety hazard.

13 Regular checks and maintenance shall be carried out on all equipment, electrical installations, emergency lighting and fire alarms and equipment to ensure their continued safe operation. A written record of these checks shall be kept and made available to an authorised officer of the licensing authority.

14 The premises licence holder shall ensure that a suitable fire risk assessment and emergency plan is in place at all times.

15 The premises licence holder shall ensure that an electrical compliance check is made at least once a year.

d) The prevention of public nuisance

16 Signage requesting customers to be respectful of others when entering or leaving the premises shall be installed in a prominent position by the premises' exit.

17 The premises' frontage shall be regularly monitored to keep it clean and clear of litter.

18 Signage shall be prominently displayed in the premises requesting that customers take home any alcohol they have purchased to consume it rather than consume it in the street.

19 Arrangements shall be put in place to ensure that waste collection contractors do not collect refuse between 19:00 and 07:00.

e) The protection of children from harm

20 A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are the following recognised photographic identification cards: a driving licence, a passport, a military identification card or a Proof of Age card carrying a 'PASS' hologram.

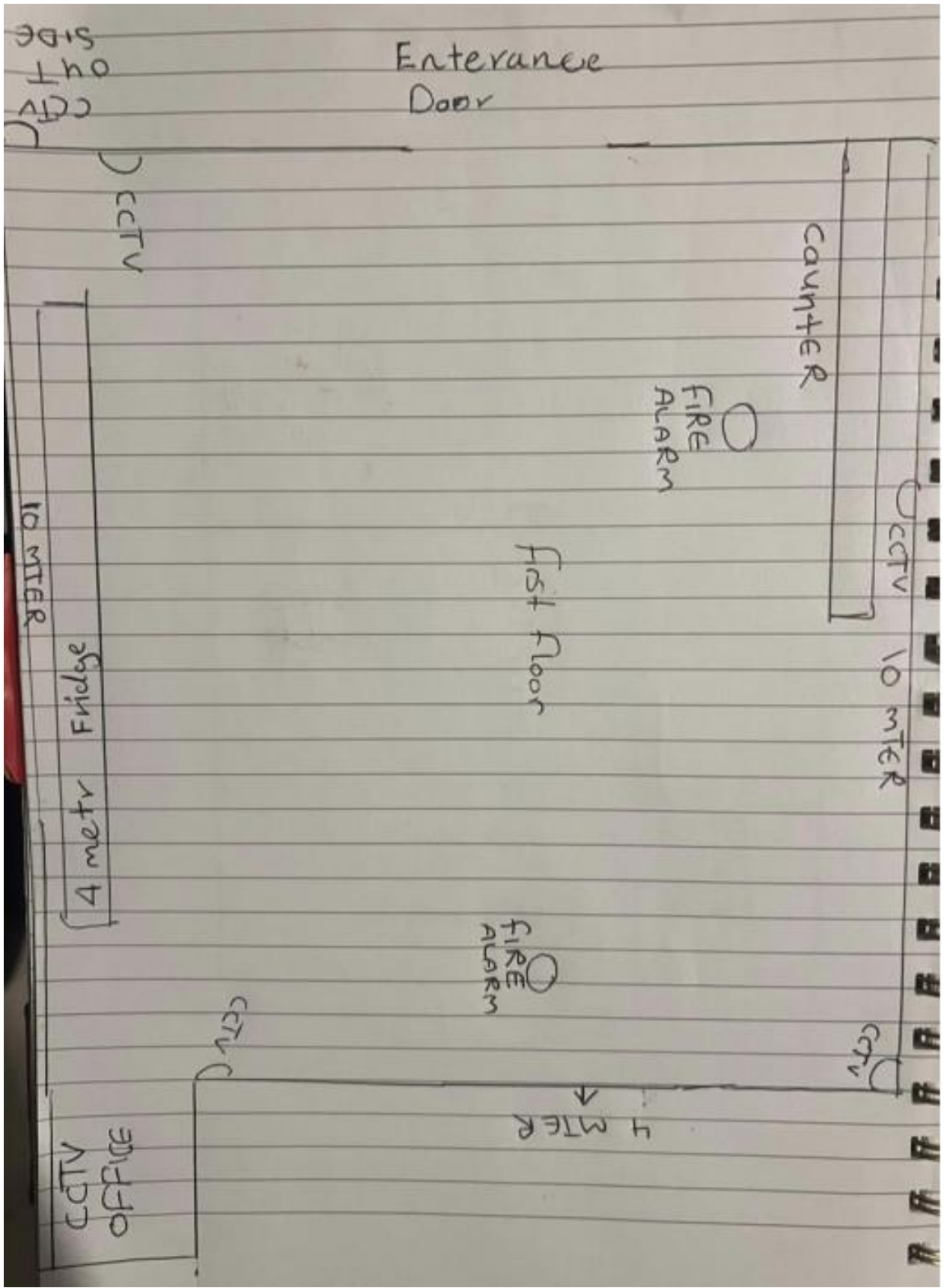
21 All occasions when persons have been refused service shall be recorded in the incident book. This record shall include:

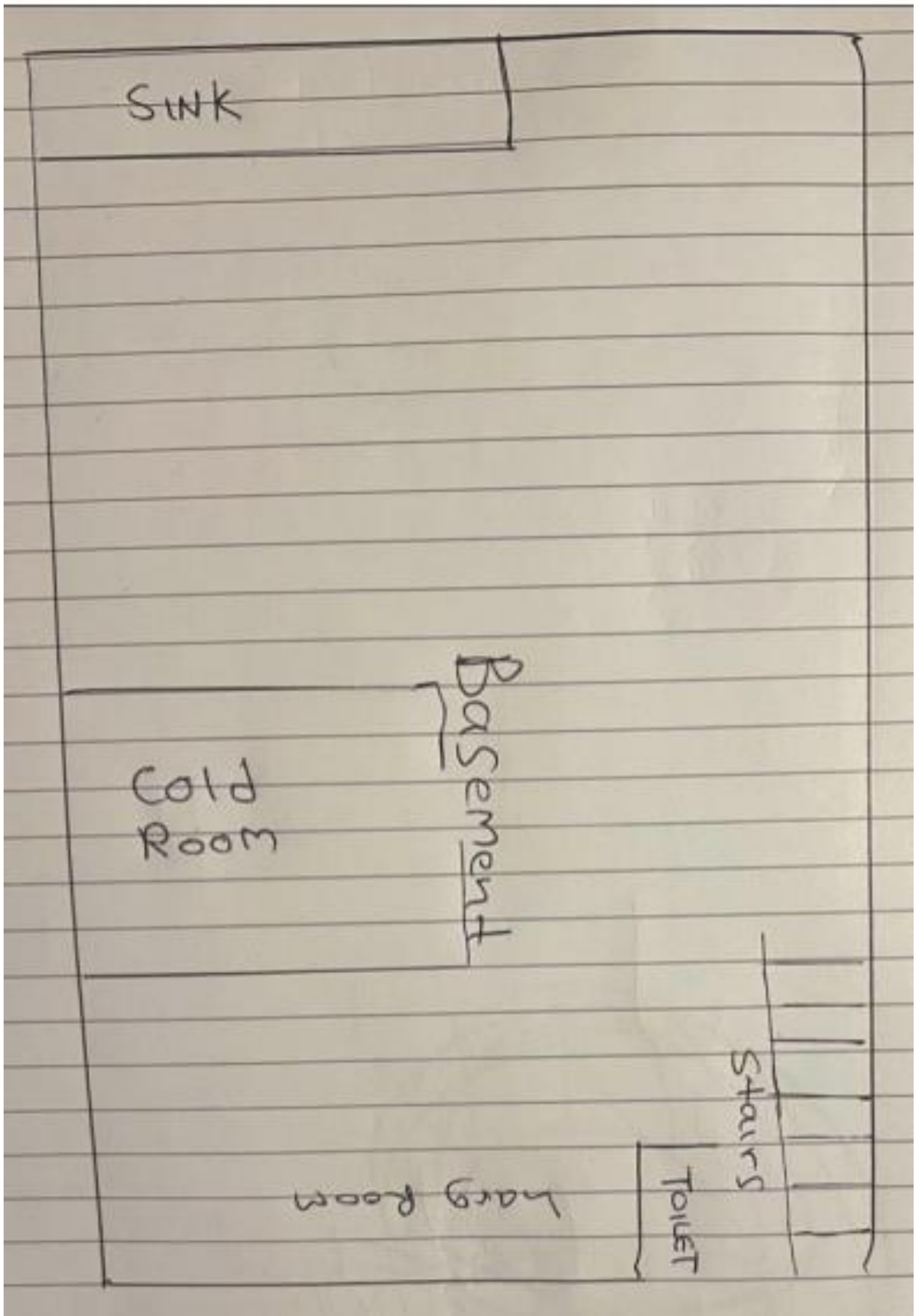
- the date and time of the incident
- a description of the person seeking to buy alcohol
- the name of the staff member who refused the sale
- the reason the sale was refused

The record must be made available for inspection when requested by an officer of a Responsible Authority.

22 The exterior area to the front of the shop shall be clearly visible from within the premises to aid the prevention of potential alcohol proxy sales.

Appendix B





Appendix C

REP A – Police Licensing

Police Station
John Street
Brighton
BN2 0LA

Tel: 01273 404535 ext.
REDACTED

Email:
brighton.licensing@sussex.police.uk

Date: 19th March 2024

SC CON ENDS 03.04.2024 VALID PCD, PPN, PCH & CIZ. (A)

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

Dear Sarah Cornell,

RE: APPLICATION FOR A PREMISES LICENCE FOR LEYA MARKET, 28 QUEENS ROAD, BRIGHTON, EAST SUSSEX, BN1 3XA UNDER THE LICENSING ACT 2003.

I write on behalf of the Chief Officer of Police for Sussex to raise a representation against the above licence application on the grounds of the prevention of crime and disorder prevention of public nuisance and protection of children from harm. We also refer to the Brighton & Hove City Council Statement of Licensing Policy and the Public Health Framework for Alcohol Licensing.

This is a proposed licence 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 (as defined in the Brighton & Hove City Council Statement of Licensing Policy) and seeks the following hours and licensable activities:

Supply of Alcohol (off sales)

Monday – Sunday: 09:00 – 23:00

Opening hours

Monday – Sunday: 09:00 – 23:00

The applicant has described the premises as being a convenience store providing a range of groceries.

Paragraph 3.1.2 of the Brighton and Hove City Council 2021 Statement of Licensing Policy states:

“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.”

And further

Paragraph 3.1.3 of the Brighton and Hove City Council 2021 Statement of Licensing Policy 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.”

When considering an application, we refer to the matrix within the Statement of Licensing Policy which sets out the expectations for new and varied applications for the City.

Cumulative Impact Zone

Restaurant Yes (midnight) / **Cafe** Yes (10.00pm) / **Pub** No / **Off-licence** No / **Late Night Takeaways** No

The location of the premises is along Queens Road, Brighton, the main throughfare to and from Brighton Railway Station. This is a very busy area with a variety of premises including Shops, Cafés, Off licences, Pubs, Restaurants and Late-Night take-aways. The premises is also close by to open green spaces such as St Nicholas Church and Brighthelm Gardens. Residential properties are situated around the premises within side roads and above retail properties.

Regarding Off Licences within the area, it's worth noting how saturated the area is with such premises. Within no more than a 5-minute walk of the proposed premises there are a total of 11 convenience / off licence stores with various operating hours and 4 of these holding 24-hour licenses. This does not include the addition of pubs within the locality that also have off sales permissions.

The licensing decision matrix within the Council Statement of Licensing Policy suggests that new premises or premises licence variations asking for these licensable activities and hours is a 'No'. While Paragraph 3.1.6 and 3.1.7 states

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.**”

The Council Statement of Licensing Policy under Paragraph 3.5 goes into detail regarding Off Licences and the concerns about the negative impact they have. Reviewing the Public Health Framework report for assessing alcohol licensing, St Peter’s & North Laine ward (of which this location sat within at the time of the report) is ranked highest for Police recorded alcohol related incidents and criminal damage and is ranked 2nd highest for sexual assaults and violent related incidents. Its also 2nd highest for suspected ambulance call outs relating to alcohol.

Although we do believe this premises falls under the “off licence” category as this is to permit the retail sale of alcohol to be consumed off site, we note within the application that the applicant claims not to be an off licence but a convenience store. We wish to be clear that we are objecting to this application as we are concerned

with the negative impact allowing a further premises to sell alcohol to be consumed off the premises (an off-licence permission) could have within the area. Within the application the applicant has not acknowledged any local concerns or offered any reasoning as to why their application would be an exception to policy or why it should be departed from.

Looking at incidents that Sussex Police have dealt with within 200-metre radius of the venue between 11th March 2023 and 10th March 2024 amongst other incidents, 199 were for violent crime, 135 anti-social behaviour, 51 criminal damage and 67 public order. Although we acknowledge that not all these incidents are linked to alcohol, when looking at these crime types alcohol is often a factor. We have concerns that permitting a further off licence and so increasing the availability of alcohol could have a further negative impact within an area that already suffers from crime and disorder. There is also the risk of alcohol being consumed within open spaces increasing anti-social behaviour and proxy sales to children and alcohol dependant persons.

The day and night-time economy can at times be challenging for all the emergency services. Within Brighton & Hove we are unique in that we have a high number of licensed venues all of which are in very close proximity to each other of which I have evidenced as mentioned above. Due to the risks associated with intoxication, the city has several initiatives that support Police and other emergency services in safeguarding the public such as BID guards, Street Marshals, Beach Patrol, Safe Space, and Street Pastors. Some of these organisations and persons involved with them are volunteers and operate in their spare time. The fact these services exist goes some way to prove the negative impact alcohol has.

Taking our comments in to consideration along with the crime data for the local area, Sussex Police invite the Licensing Authority to seriously consider refusing this application. Although we are unable to support it, we wish to do all we can to reduce any potential risk should this application go before a panel and be granted.

Attached is a list of conditions which we kindly asked are adopted should the panel be minded granting the application.

Yours sincerely,

REDACTED

Insp Mark Redbourn
Operations (inc. Licensing) Chief Inspector
Brighton & Hove Division
Sussex Police

Laya Market – Police Proposed Conditions

SC CON ENDS 03.04.2024 VALID PCD, PPN, PCH & CIZ. (A)

General:

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 to ensure the promotion of the licensing objectives.
2. No beer, lager, cider or perry with an ABV over 6% or above shall be sold at the premises save that this shall not apply to premium beer, lager, cider or perry with an ABV over 6% or above such as craft or speciality brands or brands produced by a micro-brewery, or brands produced to commemorate a national or local event.
3. All beer, lager and cider cans excluding premium and craft brands, will only be sold in multipacks of 4 or more cans.
4. No more than 10% of the store will be used for displaying alcoholic products.
5. At all times alcohol is available to purchase, a Personal Licence Holder will be on duty at the store. When this condition cannot be complied with, all alcohol will be covered so as not to be seen.
6. All spirits will be displayed behind the serving counter only and out of arms reach from customers.
7. There will be no advertising of promotions/deals on any alcoholic product that can be seen from outside the premises including window posters.
8. There will be no advertising of alcohol placed on the outside footpath such as A boards.
9. There will be no deliveries of alcoholic products.

For the Prevention of Crime and Disorder:

10. Subject to GDPR guidance and legislation:
 - 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 entrances/exits to the premises as well as any outside space. 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) 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 Police e.g., USB) or provide footage via an online link as initiated by Police, without difficulty or delay and without charge.
 - g) Any breakdown or system failure will be notified to the police immediately & 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 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.
11. a) An incident and refusals log will be maintained by the premises showing a detailed note of incidents and refusals that occur in the premises. The logs will be inspected and signed off by the DPS (or a person with delegated authority) at least once a fortnight.
- b) The logbooks should always be kept on the premises and be available for inspection 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 also be recorded (either in electronic or written form) and feedback given to staff as relevant.
- d) The logs will be kept for a minimum of twenty-four (24) months.
12. At all times the premises is open to the public, the management will contract the back up services of an approved mobile support unit (MSU) that operates at all times the premises is open to the public, with a minimum of 2 SIA registered Door Supervisors operating from it. A copy of the MSU contract will be retained at the premises and made available for immediate inspection upon request by Sussex Police or Council Officials. The MSU will be accredited by the Brighton Business Crime Reduction Partnership (BCRP) or other similar organisation approved by Sussex Police should the BCRP not be in existence.
13. 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.

For Public Safety: -

For the Prevention of Public Nuisance: -

For the Protection of Children from Harm:

14. 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 licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.
15. Signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises.
16. a) The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following face to face 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 face to face 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 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.

REP B – Licensing & Trading Standards

Sarah Cornell
Licensing Authority
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BN11JP

Date: 22 March 2024
Our 2024/00527/LICREP/EH
Ref: 01273 292494
Phone:

e-mail: REDACTED

Dear Sarah Cornell

SC CON ENDS 03.04.2024 VALID PCD, PPN, PCH & CIZ. (B)

Licensing Act 2003

Representation in regard to the application for a new Premises Licence (Ref. 2024/00793/LAPREN)

Leya Market, 28 Queens Road, Brighton BN1 3XA

I write to make a representation on behalf of the Council's Licensing and Trading Standards Team, in their capacity as a responsible authority, in relation to the above application to vary a Premises Licence submitted by H Rhythm Limited.

This representation is made as the Licensing and Trading Standards Team have concerns that the application could have a negative impact on the licensing objective of Prevention of Crime and Disorder, Prevention of Public Nuisance and Protection of Children from Harm. 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 new 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 application will have no negative cumulative impact on licensing objectives, including prevention of crime and disorder and public nuisance.

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.

On 14 March 2024, I visited the premises to carry out an inspection. At the time of this visit, I spoke to the member of staff who advised me that he had worked at the premises for approximately three weeks. He confirmed that he did not know who the owner of the premises was and had never met him.

I noted that the premises were selling tobacco and nicotine inhaling products. Under the 'Children and Young Persons (Protection from Tobacco) Act 1991' it is a legal requirement to display an A3 size notice stating that "It is illegal to sell tobacco products to anyone under the age of 18". There was no signage on display. The premises also did not have a refusal register or any training records. The staff member confirmed that he had not received any training.

He informed me that the premises had been open for approximately three months. The premises had not submitted food registration form despite being sent to the premises by the Environment Health Food Team to complete. Also, at the time of my visit I left a form for completion and stamped addressed envelope to assist returning. I can confirm that to date a food registration form had not been received. A food business is required by law to register 28 days before trading.

Also, at the time of my visit, displayed in the window and also inside the premises was a number of drug paraphernalia items for sale which included crack pipes, grinders, bong, small digital scales, ziplock bags etc.

A letter sent to the owner of the premises outlining the issues found. A copy of this letter is attached as Appendix A.

On 17 January 2024, colleagues from Trading Standards also carried out a visit to the premises as part of a vape project, carrying out inspections to check for overcapacity and non-compliant vapes. At the time of this visit they found overcapacity vape and illicit tobacco concealed in a paper towel dispenser to evade detection. These items were seized, and enforcement action is pending. A copy of the statement written following this visit is attached as Appendix B.

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 an 'Off licence' is a 'No' within the CIZ. The Licensing Team contend that the Matrix policy relates to both new and variation applications. Again, the Matrix policy can be departed from where exceptional circumstances are demonstrated, but the applicant has failed to address this.

When considering whether representations should be submitted, the Licensing Team have regard to the 'Public Health Framework for assessing Alcohol Licensing' – (accessed at <https://public.tableau.com/app/profile/brightonhovepublichealthintelligence/viz/PublicHealthFrameworkforAssessingAlcoholLicensing/NavigationPage> document. The premises sits within the electoral ward of West Hill & North Laine.

We make this representation to uphold our Statement of Licensing policy. The Policy is predicated on too much alcohol being available and applications for new premises licences will be refused unless the applicant can demonstrate exceptional circumstances. It is up to the applicant to demonstrate this and satisfy a Licensing Panel that they will not impact negatively on the CIZ.

Granting this application is likely to add additional burdens and problems to the already challenging area and although the applicant has put a number of provisions in their operating schedule, I do not believe that the applicant has demonstrated that there are exceptional circumstances to justify departing from the Policy. I therefore request this application is refused in line with 3.1.6 of our Statement of Licensing Policy.

Yours sincerely

REDACTED

Donna Lynsdale
Licensing and Fair Trading Officer
Licensing Team and Trading Standards

Appendix A – Copy of letter sent on 18 March 2023

Appendix B – Copy of Witness Statement - FB Statement 17-1-24 LEYA MARKET

Licensing and Trading and Standards Appendix A

Leya Market	Date:	18 March 2024
28 Queens Road	Our Ref:	2024/00265/UAGESA
Brighton	Phone:	01273 292494
BN1 3XA	Email:	donna.lynsdale@brighton-hove.gov.uk

Dear REDACTED

SC CON ENDS 03.04.2024 VALID PCD, PPN, PCH & CIZ. (B)

Leya Market, 28 Queens Road, Brighton BN1 3XA

I am writing to you as the owner of the above premises.

On 14 March 2024, I visited the premises to carry out an inspection. At the time of my visit, I spoke with REDACTED.

During this inspection I noted that you were selling tobacco and nicotine inhaling products. Under the 'Children and Young Persons (Protection from Tobacco) Act 1991' it is a legal requirement to display an A3 size notice stating that "It is illegal to sell tobacco products to anyone under the age of 18". There was no signage on display. The premises also did not have a refusal register or any training records. REDACTED confirmed that he had not received any training.

Prior to my visit, I was informed by our Environmental Health Food Team they had sent to the premises a food registration form for completion. You are legally required to register any premises used to prepare, store, transport or sell food. You should have done this at least 28 days before trading. I left a copy of a food registration form and a stamped addressed envelope to return. Please ensure that this form is completed and returned as a matter of priority.

Also, at the time of our visit, you had a number of drug paraphernalia items displayed in the window and also inside the premises for sale. These items included crack pipes, grinders,

bongs, small digital scales, ziplock bags etc. Below is some guidance regarding selling these kinds of items:

Supplying Paraphernalia

It is a criminal offence to supply or offer to supply an object for providing or preparing a controlled drug. The maximum sentence is 6 months imprisonment and/or a fine up to level 5.

The offence will be committed if all of the following things happen:

- An object is supplied or offered to be supplied.
- The object could be used or changed to be used (either by itself or together with another object or objects) to provide a controlled drug.
- The person supplying or offering to supply the object believed that it would be used by any person to give the drug to themselves or another person.
- The provision of the drug would be illegal (certain people such as doctors and dentists are legally allowed to provide drugs).

Objects such as crack pipes, grinders, spoons, bongs and tourniquets could fall within this prohibition.

I have posted to the premises a Tobacco Notice, Refusal Register and Training Book.

A copy of this letter has also been sent to Sussex Police.

If you have any questions relating to the content of this letter, please contact via email.

Yours sincerely
REDACTED

Donna Lynsdale

Licensing and Fair-Trading Officer

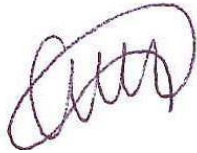
Licensing Team and Trading Standards

cc. Sussex Police via email

Licensing and Trading and Standards Appendix B

STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 16.2;
Criminal Justice Act 1967, s. 9)*



STATEMENT OF Felicity Broder

Age of witness (if over 18, enter "over 18"): Over 18

This statement (consisting of 2 pages) **is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.**

My name is Felicity BRODER and I am a Trading Standards Officers with Brighton and Hove City Council Trading Standards department. On the 17 January 2024 at 1415 I entered LEYA MARKET, 28 QUEENS ROAD, BRIGHTON, BN1 3XA with Fair Trading Officer Ben FRENCH and Fair Trading Officer Rebecca CASEY. This was part of a vape project, carrying out inspections to check for over capacity and non-compliant vapes. There was a female on the premises who introduced herself as REDACTED, however I now know to be REDACTED.

We introduced ourselves and explained the purpose of our visit. I then went behind the counter and found several packets of illicit tobacco and overcapacity vapes. Due to there now being breaches of the legislation I showed REDACTED the Code B notice and explained what our powers are and that we would be seizing any non-compliant items that we find.

FTO FRENCH AND FTO CASEY went down into the basement of the premises and reported to me that it appeared like someone was either

sleeping or living down there with luggage being stored. I then went to check the basement and if there were any means of escape. The fire escape appeared to be blocked so I decided to make a referral to East Sussex Fire and Rescue Service.

The following items were found during the inspection, some of which were hidden in a paper towel dispenser to evade detection. I attach a photo of this hide as exhibit FJB/LV17/08.

X10 PACKETS OF MAYFAIR X10

PACKETS OF RICHMOND

X22 PACKETS OF MARLBORO GOLD X2

PACKETS OF AMBER LEAF

X11 PACKETS OF CUTTERS CHOICE X4

PACKETS OF MARLBORO RED X20 PAKCETS

OF MARLBORO TOUCH X6 PACKETS OF B & H

X21 SKE VAPES

X52 R AND M VAPES

Also found was paperwork addressed to H Rhythm Ltd behind the counter.

And were placed in tamperproof evidence bags by FTO CASEY and marked as Exhibits FJB/LV17/02, FJB/LV17/03, FJB/LV17/04, FJB/LV17/05, FJB/LV17/06 and FJB/LV17/07. FTO CASEY completed the seizure list and I marked this as exhibit FJB/LV17/01. At 1515 we completed the inspection and I provided the seizure list and Code B notice to REDACTED.

The seized items were then taken straight to the secure evidence store and BRIGHTON TOWN HALL, BARTHOLOMEW SQUARE, BRIGHTON.

Signed: REDACTED

Date: 22/01/24

(To be completed if applicable: being unable to read the above statement I,of, read it to him/her before he/she signed it.

Signed:

Date.....)

