

APPENDIX C

Mrs R Pratley
BHCC Licensing Team
Bartholomew House
Bartholomew Square
Brighton
BN1 1JP

Date: 17th February 2020
Our Ref: 2020/01906/LICREP/EH
Phone:
Email:

BP CON ENDS 25.02.20 VALID PCD & PPN (A)

Dear Mrs Pratley,

**Re: Licensing Act 2003 - Representation regarding the application for a Variation to the Premise Licence issued for:
Hove SF Connect, 373 Kingsway, Hove, BN3 4QD
Reference no. 2020/00338/LAPREV**

I refer to the application made by BP Oil UK Limited, for a variation to the Premises Licence issued for the above premises. The Licensing Team, in its role as a Responsible Authority, has concerns about this application and its impact on crime and disorder and public nuisance and therefore submits this representation, which I write on its behalf.

This representation is also submitted as there are concerns that the application does not meet the requirements of the Council's Statement of Licensing Policy (SoLP), with regard to applications made for Off Licences within the 'Other Areas' section of the city.

The applicant currently holds a Premises Licence which allows off sales of alcohol from 08:00 - 23:00 hours every day and they are applying to vary these hours to allow 24 hour alcohol off sales. The premises already has 24 hour opening hours and late night refreshment from 11pm-5am every day.

The Council's SoLP includes a Matrix Model approach for licensing decisions, which 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.

The Matrix Model, on pages 17-18 of the Council's SoLP, indicates that in the 'Other Areas' of the city, off-licences might be granted with a terminal hour of 11pm. The SoLP does state that each application is still considered on its individual merit and there is discretion to depart from the policy where justified. However, departure from the Matrix Model is only expected in exceptional circumstances.

Guidance issued under S182 of the Licensing Act 2003 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

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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 ... 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.

I have looked carefully at this application, paying particular attention to the Matrix and any exceptional circumstances provided for departing from the Matrix. I contend that no exceptional circumstances have been provided. I am therefore concerned that allowing 24 hour alcohol sales will impact on the Licensing Objectives of The Prevention of Crime and Disorder and The Prevention of Public Nuisance.

We maintain that the Matrix Model states that off-licence applications should only be granted until 11pm in the location that this premises sits within and note that no exceptional circumstance evidence has been provided by the applicant to warrant departure from this part of the policy.

The Licensing Team act as guardians of the council's SoLP and we make this representation as we believe the application made is contrary to our policy and will impact on Licensing Objectives. We therefore invite a Sub-Committee Panel to decide the outcome of this application on behalf of the Licensing Authority.

Yours sincerely,

Senior Licensing Officer
Licensing Team
Environmental Health and Licensing

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

Date: 25th February 2020
Our Ref: 2020/01831/EPLIC/EH
Phone:

e-mail:

BP CON ENDS 25.02.20 VALID PPN (B)

Dear Sir/Madam,

**Licensing Act 2003: St Leonards Filling Station/M&S supermarket,
373 Kingsway Hove BN3 4QD**

I wish to make a representation against an application for 24 hour alcohol sales at this premise. The business is a petrol station with M&S food, plus alcohol sales on the busy coast road. It is surrounded by residential houses on 3 sides; up to the boundary to the east and north.

There is an in/out access on the coast road and a further side entrance into St Leonards Gardens, residential road alongside. There is car parking for numerous customer vehicles and an automated cash point.

Deliveries of food and drink take place to the west and rear of the building, there are no barriers between the delivery bay/fans and residential buildings. Fuel deliveries are at the front to the east side of the forecourt.

There are large fans that run continuously on the western side of the building, overlooked by housing. On the eastern side new air conditioning units were installed last year (there is a high brick wall between the AC units and the adjoining garden). There is lighting throughout the site that is on, including at night.

Currently the licence allows alcohol sales from 8:00 to 23:00 every day. There is a late night refreshment (LNR) 23:00-05:00 Monday to Sunday. The applicant has requested the sale of alcohol 24hrs 7 days per week all year.

I have concerns about this application and make a representation on the grounds of prevention of public nuisance, one of the 4 licensing objectives within the Licensing Act 2003.

There is a current noise nuisance investigation related to delivery and fan noise, open since August 2019 that is not yet settled. In the past there have been complaints about customers loitering in the vicinity, use of the St Leonards access by cars with loud radios and revving engines, young people using the airline and being abusive when challenged, noise from deliveries, including in the early hours and noise from fans, including at night.

Agreement has been reached with the applicant to the following proposed condition to be attached to the premises licence, to assist in ensuring public nuisance is controlled now and in future:

Signage shall be displayed at the entry and exit of the site to request that customers consider and respect those local residents living in the immediate vicinity.
(see application form).

Unfortunately, it has been impossible to obtain agreement for the following proposed conditions (in italics):

1 Staff to ensure persons leaving the premises do not congregate in the immediate vicinity i.e. the pavement alongside premises, especially between the hours of 23:00 and 0700, so as to minimise disturbance;

2 Staff should regularly monitor the whole site to ensure there is no nuisance to neighbours. A record shall be kept, including date, time, location and the action taken. This record shall be made available for inspection by council officers on request;

Although the applicant states they do currently monitor the site, and I have suggested that CCTV may be used to replace paper records, or this could be part of the suggested noise management plan, this condition is not agreed.

3 Keep the premises and immediate vicinity free from litter by periodically inspecting and removing litter throughout the operating period. Provide rubbish bins and empty when full;

Proposed condition 3 is not agreed, the applicant proposes instead:

Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.

4 Deliveries, recycling and rubbish should not be dropped off, collected or placed outside except between the hours of 07:00Hrs and 19:00Hrs;

The applicant has verbally confirmed that deliveries to not take place before 0700, but will not agree to formalising this with a condition.

5 Ensure that external lighting is designed and operated (including changes submitted to the planning authority, if necessary), so as not to cause light nuisance to neighbours;

This issue was covered by the original planning permission in 1999; there have been material changes to the layout and fittings, not all of which would be/have been subject to further planning application. There is the potential for light nuisance and petrol stations that operate 24/7 alongside residential properties are more likely to attract public light nuisance complaints, these can then ultimately be dealt with by enforcement of the licensing conditions.

6 Submit a noise management plan (NMP) addressing all the public nuisance conditions in detail to show how you will ensure that public nuisance will not occur and to demonstrate that you are taking all reasonable steps to prevent neighbour disturbance. This plan should be used to train staff, available to the authorities and neighbours and reviewed periodically, especially in the light of operational changes. NMP shall be recorded and reviewed on an annually basis or if there is a change in circumstances, and a copy kept on the premises.

A NMP is a policy document that brings together all practices that relate to noise control and management e.g. plant and equipment, control of people noise, deliveries and so on. It is particularly useful where part of the operation is outdoors and noise breakout into neighbouring land is more likely. The idea is for the company to think through the best practicable means of controlling noise now and as the business on this site evolves. In my dealings with the company front line and head office I have found there appear to be operational barriers to compliance with standards relating to public nuisance. I imagine the policy areas already appear in documents within the organisation, but I have not experienced effective implementation to date. The licensing policy emphasises the need for management, training and support of staff in promoting licensing objectives, the authority must have confidence in the management of the unit. A NMP is a tool for the company to use to avoid breaching the licence. I would advise that this is good practice to mitigate against public noise nuisance.

7 Licensees are expected to communicate with local residents and businesses to address and resolve relevant problems. This could include giving contact telephone numbers to local residents so they can report any issues to the manager at the premises and have them dealt with. It is expected that contacts at the premises would be in a position of responsibility, available when the premises are open, so that problems can be addressed at the time.

The applicant is happy to provide contact number if requested by residents. However, the direct contact with staff by residents to date has not resulted in an effective response, and they have turned to the local authority instead.

To summarise my concerns are that much of the activity related to this business – several fuel, alcohol (wine from M&S and other alcohol from DHL) and food/goods deliveries each week, go on outdoors and can be heard by neighbours. The air handling equipment to keep food and alcohol cold operate 24/7 and can be heard by nearby residents. Noise will increase when 9 extra hours per day of alcohol sales are added. The outdoor area is sensitive due to the proximity of residents.

There are no other 24hr outlets for alcohol in the area and this is a busy route for people going home from a night out in the City. The 24hr alcohol sales are likely to be a magnet for all groups, raising concerns about dispersal of customers. The M&S food attracts customers from a wide area and there will be increased vehicle movements and footfall at all hours, beneath the bedroom windows of local residents.

Finally, the council's licensing policy does not support increase hours of availability of alcohol off sales beyond 23:00 where there is the potential for concern from residents.

Yours sincerely,

Environmental Health Officer

From:
Sent: 25 February 2020 21:46
To: EHL Safety
Subject: Licence - I445/3/2020/00338/LAPREV

BP CON ENDS 25.02.20 VALID PCD & PPN (C)

Good evening,

I am contacting you this evening to lodge my objection to the proposed licence application submitted by Hove SP Connect, Kingsway, Hove for the extension of their licence to sell alcohol 24/7. The granting of this variation will be detrimental to those living nearby creating a destination venue for those seeking alcohol within a residential area. This will, at a minimum be a public nuisance to those living within the vicinity of the garage.

1. The area is residential, there are no other premises open at this time so will create a destination for people seeking alcohol with no place other than the forecourt or immediate area for them to congregate.
 2. The garage already attracts noisy late night visitors towards and through the weekends, more so in the summer months when they hang around in warmer weather.
 3. There is already a 24 hour licence holder near to Portslade Station where the pubs are meaning that there is no requirement to grant this application and draw people from the immediate area of the pubs should they wish to purchase more alcohol.
 4. There is adequate provision for home delivery of alcohol so there is no need for people to be disturbing others whilst out in search of alcohol at all times of the night.
 5. The boundary wall of the garage was sprayed with graffiti and has not been addressed by the garage and neither have they engaged with residents over the issue. They have little concern for those living nearby simply leaving the graffiti in place.
 6. Concerns regarding general noise and disturbance have gone unaddressed and disregarded by employees of the garage until council intervention. Whilst this relates to poor maintenance of their equipment and general disturbance to neighbours they were still unwilling to engage or address the issue until the environmental department intervened. This shows a complete lack of regard for neighbours who are effected by their business. Not to mention the increased disruption for extra deliveries and vehicles for those not arriving on foot so more noise and pollution within the immediate area.
 7. The rubbish discarded by those using the garage already, is constantly left on the floor of the forecourt or neighbouring roads, and therefore outside the homes of those in the immediate area which is anti-social and a nuisance. This situation will only be magnified by attracting more customers especially if those customers have been drinking and are in search of more alcohol to extend their drinking.
- Nothing about this application enhances the lives of those living nearby who already live alongside the garage being open 24/7 with BP only seeking to further raise their profit margins with disregard for those who must endure the increased disruption to their lives and potential anti-social behaviour associated with proactively attracting people seeking alcohol to a residential area at all times of the day and night every day of the year!

Thank you for your consideration.

Kind regards

