

## **APPENDIX D**

### **Representations**

Miss Sarah Cornell	Date:	23 <sup>rd</sup> October 2020
Licensing Authority	Our Ref:	2020/26745/LICREP/EH
Brighton & Hove City Council	Phone:	<b>REDACTED TEXT</b>
Bartholomew House	e-mail:	<b>REDACTED TEXT</b>
Bartholomew Square		
Brighton		
BNI IJP		

### **SC CON ENDS 28.10.20 VALID PPN, PCD & CIZ (A)**

Dear Miss Sarah Cornell,

#### **Licensing Act 2003 – Licensing Authority representation against the application for a Premises Licence Variation (Ref: 2020/03111/LAPREV) Re: The Best Fish & Chips, 56 Kings Road, Brighton, East Sussex, BNI INA**

I refer to the application made by Mr Ali Akbar Limited for a Variation to the Premises Licence for The Best Fish & Chips, 56 Kings Road, Brighton.

The applicant describes the variation on the application form as; *'Proposing to change the current fish and chips cafe into a On-license restaurant and Off-license/convenience store. Alcohol is to be stored behind the counter and in two fridges to the rear of the premises next to the counter. Store currently supplies fish and chips takeaway and restaurant and has a late night refreshment license, which will still remain as it is.*

*If the variation is granted, we will add the addition of a off-license/convenience store. Apart from selling alcohol we will also supply sundry items such as tobacco, soft drinks, sandwiches and general groceries as well as continue as a fish and chips restaurant/Takeaway' sic.*

The current Premises Licence, originally granted in 2005, permits the Licensable Activity of Late Night Refreshment Sunday – Thursday 11pm-3am and Friday and Saturday 11pm -4am. There are no conditions attached to the Premises Licence at all.

The application seeks the addition of the licensable activity of the Sale of Alcohol to the Premises Licence for the same terminal hours as those on the existing licence for Late Night Refreshment but with start time of 11am daily. The opening hours stated on the variation application are 11am-3am Sunday- Thursday and 11am – 4am Friday and Saturday.

I have concerns about this application and make a representation on the grounds of the Prevention of Crime and Disorder and Prevention of Public Nuisance and that this application falls within our Cumulative Impact Area.

The Council introduced a special policy to address cumulative impact on the 13<sup>th</sup> March 2008 and following further consultation the cumulative impact area (CIA) was expanded in December 2011. The special policy was set up 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 special policy is reviewed annually and a cumulative impact assessment has been completed as part of the forthcoming mandatory review of the statement of licensing policy. The special policy will only be overridden in exceptional circumstances. New applications and variations to existing licences should normally be refused following relevant representations. This presumption of refusal can be rebutted by the applicant if they can show that their application will have no negative cumulative impact on licensing objectives including the 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 special policy in the light of the individual circumstances of the case.

The Council's Statement of Licensing Policy 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. The application seeks both on and off sales of alcohol 24 hours, every day. The matrix says 'No' to both pubs or Off licences in the Cumulative Impact Area. Each application is still considered on its individual merit and there is discretion to depart from the Matrix approach policy in exceptional circumstances.

Although some conditions are offered in section 16 of this application, none relate to how alcohol will be sold 'On' the premises such as via café or restaurant conditions as detailed at 3.3.3 and 3.3.4 on page 19 of our Statement of Licensing Policy. 'On' sales of Alcohol in the Cumulative Impact Area on page 10 of our Statement of Licensing Policy would permit a café until 10pm and a restaurant until midnight. There are also no conditions restricting how alcohol will be sold 'Off' the premises.

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 applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), 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.

There is no mention of the Statement of Licensing Policy or the Cumulative Impact Area in this application. The applicant has not demonstrated exceptional circumstances to depart from our policy or how they will not add to the existing cumulative impact of the area.

The premises is in the Cumulative Impact Area and is located in the electoral ward of Regency, which according to our Public Health Framework for Assessing Alcohol Licensing (5th edition- January 2019) is ranked the worst out of 21 wards under Crime and Disorder data for All violence against the person, All injury violence, Non-injury assault and Sexual offences. It ranks second worst for Police recorded alcohol related incidents and third worst out of all the wards for Criminal damage.

Under the Health data Regency ward ranks second worst for Alcohol suspected ambulance call outs and A&E attendances with a record of alcohol. It ranks third worst for Clients in alcohol treatment and Alcohol related mortality 2015-17.

I am making this representation as a guardian of our policy which this application is contrary to. I do not believe that the applicant has demonstrated that there are exceptional circumstances to justify departing from the Policy.

Yours sincerely

**REDACTED TEXT**

**REDACTED TEXT**

Licensing Officer,

Licensing Team,

Environmental Health and Licensing,

Regulatory Services

Police Station  
John Street  
Brighton  
BN2 0LA

Tel: **REDACTED TEXT**

Email: **REDACTED TEXT**

Date: 26<sup>th</sup> October 2020

The Licensing Technical Support Officers  
Environmental Health, Brighton & Hove City Council  
Bartholomew House, Bartholomew Square  
Brighton, East Sussex  
BNI IJP

**SC CON ENDS 28.10.20 VALID PCD & CIZ (B)**

Dear Sarah Cornell,

**RE: PREMISES LICENCE VARIATION APPLICATION FOR THE BEST FISH & CHIPS, 56 KINGS ROAD, BRIGHTON, EAST SUSSEX, BNI INA UNDER THE LICENSING ACT 2003. 1445/3/2020/03111/LAPREV.**

I write on behalf of the Chief Officer of Police for Sussex to raise a representation against the grant of the above licence variation application on the grounds of the prevention of crime and disorder. We also make reference to the 2019 Brighton & Hove City Council (BHCC) Statement of Licensing Policy and the 2019 Brighton & Hove Public Health Framework for Assessing Alcohol Licensing 5<sup>th</sup> edition report.

This is an application to vary a premises licence located at 56 Kings Road, Brighton. Currently the premises is operated as an eat in and take away food outlet selling items such as fish & chips, burgers and kebabs. The premises at present holds a late night refreshment licence which permits this activity until 03:00 Sunday through to Thursday and 04:00 Friday and Saturday. The surrounding area is a mix of late night clubs and bars as well as more traditional pubs, restaurants, cafes and a wide range of retail outlets. Directly above the premises is a number of residential flats and to the West, just one door up, a hotel.

The application seeks to add the following licensable activities and timings:

Supply of alcohol (on and off sales)

**Sunday through to and including Thursday: 11:00 – 03:00**

**Friday & Saturday: 11:00 – 04:00**

This is an application for alcohol licence within a very busy part of the City and an area that already has a high number of licensed premises be that drinking establishments, off licences, restaurants and cafes. The area at times can be challenging for emergency services, especially during the night time economy. Sussex Police are concerned about the impact that granting this application could have on the area. Although the highest risk would be early evening and throughout the night, we believe that daytime trading could also impact the area by increasing the risk of alcohol being consumption on the streets and beach which can increase anti-social behaviour within the locality.

The night time economy within Brighton & Hove can at times be challenging for all the emergency services. Within the City we have a high number of late night alcohol licensed venues.

Due to the risks associated with intoxication, the City has a number of initiatives that support Police and other emergency services in safeguarding the general public. These include Beach Patrol, Safe Space, Good Night Owls and Street Pastors. The majority 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 within the night time economy.

With high numbers of person descending on the City during the weekends and the impact this has, Sussex Police operate a standalone night time operation each weekend and at other various peak times throughout the year. This involves dedicated Police resources patrolling the main night economy area to free up our normal night duty officers so they can manage the rest of the City and the demands it has on our service. Having a visible police presence in the area, especially during the weekend evenings, goes some way to assist in reducing criminal incidents occurring, but unfortunately does not stop them in their entirety. The majority of incidents dealt with have an element of alcohol linked to them. This is a mix of persons becoming drunk and disorderly, violent and a high number of incidents involve persons who have become a victim of crime due to their own vulnerability after consuming alcohol. Staff at venues and from emergency services are far too often also at the end of a drunk person's aggression.

The location of the premises does mean that a high number of customers during the evening are highly likely to have already been drinking, by permitting this licence we are risking increasing their intoxication levels and increase the risk of crime & disorder. There are no conditions being offered to restrict the sale of alcohol to just food orders and they also state that they wish to operate as an off licence. The whole of the back serving area is being reserved for the alcohol to be on display which makes us believe that their wish to sell alcohol is not ancillary to the rest of the business but in fact a large part.

The area along Kings Road between Middle Street and West Street can be very volatile in the evenings. Persons congregate around this area after leaving venues along the seafront and surrounding streets due to a number of late night food outlets being open. Fights often take place as well as robberies all of which takes up a high number of police resources. Although we appreciate this premises is already open late, it is just for food and soft drinks. By giving persons the ability to purchase and consume more alcohol in this area, we are

going to slow down dispersal, increase risk of persons buying alcohol heading back down on to the beach to consume and generally increase persons intoxication levels which in turn increases risk to them and others especially with this being a coastal location – beach, sea and alcohol are a dangerous mix.

Reviewing the Public Health Framework report for Assessing Alcohol Licensing 2019 edition, Regency ward, of which this location is within, is ranked second highest out of 21 wards for police recorded alcohol related incidents. Granting an additional alcohol we believe could add further to issues currently experienced within the city and so have a negative impact on the surrounding area.

Under the matrix approach within the Brighton & Hove City Council Statement of Licensing Policy Section 3.3.2 – the hours and style of operation the applicant is seeking is not supported within the “Cumulative Impact Area” of which this location falls within.

Paragraph 3.1.4 of the Brighton and Hove City Council 2016 Statement of Licensing Policy states:

*“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.”*

The applicant did not reach out to us prior to submitting their application nor have they made mention of the Brighton & Hove Statement of Licensing Policy so we do not feel they have fully considered the negative impact such an application could have. Conditions being proposed under section M are very limited however, due to the high risk because of location and times being asked for, we do not believe there are any conditions that could be offered which would make us feel comfortable to support such an application. Finally we do not feel they have given any exceptional circumstances to depart from the policy and for their application to be granted.

Taking in to account our comments above, the Statement of Licensing policy, Public Health framework report and the location of the premises being in the heart of the night time economy and the cumulative impact area, Sussex Police are unable to support such an application and kindly ask the Licensing Authority to refuse granting such a licence.

Yours sincerely,

**REDACTED TEXT**

**REDACTED TEXT**

Licensing Inspector

Sussex Police

## **Agreement**

An agreement was made with the Environmental Protection Team which included conditions relating to the Prevention of Public Nuisance. The applicant agreed to the conditions below and amended the operating schedule accordingly.

1. At no time between 23.00 and 07.00 hours will glass of any kind be removed from the premises into outdoor rubbish bins or collected from them.
2. Notices shall be prominently displayed around the external area, requesting patrons to respect the needs of local residents and to leave the area quietly.

