

ANNEX C

Police Station
John Street
Brighton
BN2 0LA

Tel: **REDACTED TEXT**

Email: **REDACTED TEXT**

Date: 02nd February 2021

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

SC CON ENDS 16.02.21 VALID PCD, PPN & CIZ (A)

Dear Sarah Cornell,

RE: PREMISES LICENCE APPLICATION FOR MR TIPSY ICE CREAMS, 46 GEORGE STREET, BRIGHTON, EAST SUSSEX, BN2 1RJ* UNDER THE LICENSING ACT 2003. 1445/3/2021/00110/LAPREN.

***Application form states the postcode as being BN2 1RR but on checking the Post Office database, they have it listed as BN2 1RJ**

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

This is an application a new premises licence located at 46 George Street, Brighton. The surrounding area is a mix of retail shops, pubs as well as late night drinking venues, restaurants including fast food style outlets and a high number of residential properties. Within a stone's throw of the proposed location, there are at least 25 premises licenses all permitting alcohol provision as well as other licensable activities. George Street, Brighton sits within the Cumulative Impact Area as defined in the Brighton & Hove City Council Statement of Licensing Policy and forms part of the Queens Park ward. On reviewing both the Statement of Licensing policy and the Public Health Framework:

- The Statement of Licensing policy is put together following consultation with various organisations including Sussex Police and much of it is based on crime data and concerns raised by us.
- Applications for the style of operation as being requested in this application is not supported within the Statement of Licensing policy. The policy recognise that due to the concentration of licensed premises in an area of the city center is causing problems of crime and disorder and public nuisance. Such areas fall within the “Cumulative Impact Zone”
- The Statement of Licensing policy will only be overridden in exceptional circumstances. Following valid representations against an application, it is presumed that the application will be refused unless the applicant can show that their application will have no negative impact on the surrounding area.
- The Public Health Framework ranks Queens Park ward 3rd highest out of 21 wards for police recorded alcohol related incidents. The 1st and 2nd ranking are neighboring wards of St Peters & North Laine and Regency wards.

The application seeks the following licensable activities:

Supply of alcohol – both on and off sales and provision of recorded music:

Sunday – Thursday: 12:00-22:00

Friday – Saturday: 12:00-23:00

The opening and closing hours are the same as above.

The applicant did pre consult with Police prior to submitting and has continued to have open discussions with us. Through these communications we’ve had, we feel the application does not reflect fully what the proposal is for this site and although we can support some of it, we have concerns over the provision of alcoholic products over and above ice cream especially due to the location. The locality suffers from well publicised anti-social behavior, crime and disorder and general public nuisance. Alcohol plays a large part in many of the incidents that occur within the area. During the day we see a number of alcohol related shop lifting offenses. In the evenings incidents are often linked to persons that have consumed alcohol. These are a mix of people having committed crime while intoxicated but also affecting people that have become a victim due to their own intoxication and being seen as easy pickings by offenders. The area is very busy especially within the night time economy. For this reason it falls within our Operation Marble area. For this we have dedicated officers on duty at the weekend and other notable dates throughout the year, policing the night time economy area.

We asked a number of questions which has raised our concerns over the granting of this licence and how much of an alcoholic led business it would be. When asked what percentage of ice cream will be alcoholic and non-alcoholic, we were advised that all except one would have some form of alcohol in it – it has since been agreed that they would offer 40% of the ice cream products as ones with alcohol in them. We also asked about the alcoholic drinks part of the application which stated they wish to offer scoops of sorbet in glasses of fizz (prosecco) and coffee liquors. Further probing it’s also been confirmed they would like to offer cocktails and beers. Although they state all of these will be low ABV, no condition or set maximum ABV has been offered.

Sussex Police has proposed a number of conditions of which we attach. We feel by limiting the alcoholic offerings for both on and off sales to just ice cream, there are exceptional circumstances to go against policy as the risk would be very low. Unfortunately the applicant has confirmed they would not be able to operate their business model in this way and would be relying on other alcoholic products to survive, especially during the winter months. Apart from ice creams and other desert products, the food offerings are limited to items such as cakes and cookies. Under the statement of licensing policy, this would not put the premises under a café category as the conditions would not be able to be adhered to.

Due to the risks associated with alcohol, 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. By granting additional licences we are not only increasing the possibility of emergency services being called upon but also these volunteer organisations. All of which are already stretched and will add additional strain.

Taking in to account our comments above, the Statement of Licensing policy and the Public Health framework report, Sussex Police are only able to support such an application if the attached conditions are applied to it. Without these conditions we feel the premises could operate as an alcohol led business and bring with it a negative impact to an area that already suffers from a number of alcohol related issues. Without these conditions, we would kindly ask the Licensing Authority to refuse granting this licence application in full.

Yours sincerely,

REDACTED TEXT

Licensing Inspector

Sussex Police

Proposed Conditions – Mr Topsy George Street Brighton

General

1. Should the premises licence holder, Tom Gathercole cease trading at 46 George Street, Brighton, BN2 1RR then the licence will be surrendered and any new occupants will need to apply for a new premises licence.
2. The only permissions permitted under this licence for both on and off sales of alcohol is by way of ice cream where alcohol forms part of the ingredients. No other form of alcohol is permitted to be sold for consumption on or off the premises.
3. No deliveries will be permitted to open spaces.

4. Alcoholic ice cream offerings will be no more than 40% of the total ice creams on offer meaning that at least 60% will be non-alcoholic.
5. Alcoholic and non-alcoholic ice cream will be on display separately within the display units.
6. Authorised staff employed by Sussex Police in the role of licensing officer shall have the right of access to the licensed premises during hours of operation for the purpose of inspection of the premises and premises records in order to ensure the promotion of the licensing objectives.

Additional conditions as stated in original application or agreed with another Agency.

Prevention of crime & disorder

7. (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 to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.
(b) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
(c) CCTV footage will be stored for a minimum of 31 days
(d) The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
(e) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
(f) Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.
(g) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
(h) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.
8. (a) An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week.
(b) The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the

police. An incident will be defined as being one which involves an allegation of a criminal offence.

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

Additional conditions as stated in original application or agreed with another Agency.

Public safety

Additional conditions as stated in original application or agreed with another Agency.

Prevention of public nuisance

9. Deliveries will only be conducted by persons on a bicycle or via the premises tricycle – i.e. no deliveries by motorbikes, mopeds, cars or similar. This is to assist with reducing congestion on George Street.
10. Any form of music played within the premises is to be set at a noise level that would be considered by any reasonable person to be background music.

Additional conditions as stated in original application or agreed with another Agency.

Protection of children from harm

11. The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcoholic products 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.
12. Signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises.
13. In regards to delivery - Challenge 25 policy will be in operation and all forms of advertising and promotional literature detailing the delivery service (including internet sites and flyers/leaflets) will clearly and prominently state that ice cream containing alcohol will only be delivered to the person named on the payment card used for payment, and that upon arrival at the address if the person named appears to be under the age of 25, they will be required to show an approved form of ID prior to the item being handed over. Failure to show the required form of ID will result in non-delivery of the item. This includes click & collect. The advertising will clearly and prominently state the forms of ID that will be accepted and are as stated in condition 9 within Annex 2.

14. (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 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

*Refusing the sale of alcohol for consumption off the premises to people who may have alcohol dependency issues

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

(c) All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.

Additional conditions as stated in original application or agreed with another Agency.

Miss Sarah Cornell

Licensing Authority

Brighton & Hove City Council

Bartholomew House

Bartholomew Square

Brighton

BNI IJP

Date: 2nd February 2021

Our Ref: 2021/20667/LICREP/EH

Phone: 01273 292143

e-mail: **REDACTED TEXT**

SC CON ENDS 16.02.21 VALID PCD, PPN & CIZ (B)

Dear Miss Sarah Cornell,

Licensing Act 2003 – Licensing Authority representation against the application for a Premises Licence (Ref: 2021/00110/LAPREN)

Re: Mr Topsy Ice Cream, 46 George Street, Brighton, BN2 1RJ

I refer to the application made by Mr Tom Gathercole for a Premises Licence for Mr Topsy Ice Cream, 46 George Street, Brighton.

The application states; *46 George Street is a retail shop front premises of approximately 53m2. It is situated in a street of mixed retail outlets, cafes, restaurants and pubs. The layout of the premises is a rectangle which will be split into a commercial kitchen at the rear (to manufacture artisan alcoholic ice cream using local ingredients as far as possible) and a retail outlet with approximately 30 covers to the front for people to a) take away tubs of ice cream for home or takeaway for immediate consumption and b) to eat in. The off-supplies will therefore be only of alcoholic ice cream (nil to 10% ABV). In the seated part of the ice cream parlour ice cream (nil to 10% ABV) will be supplied to customers in the form of ice cream in tubs, as sundaes and a few ice cream cocktails and in hot drinks.*

The application seeks the licensable activity of the Sale of Alcohol both On and Off the Premises from 12 noon until 10pm Sunday to Thursday and from 12 noon to 11pm Friday and Saturdays, with the same opening hours.

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 13th 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. This application seeks both On and Off sales of alcohol, every day. The matrix says 'No' to both pubs and 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. There are also no conditions restricting how alcohol will be sold 'Off' the premises. The application appears contradictory, the form states '*The off-supplies will therefore be only of alcoholic ice cream (nil to 10% ABV)*' but the supporting statement says '*The off sales list would specifically consist of coffees, ice cream tubs etc.*'

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 on the application form. 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.

After the application was submitted a statement was provided by Mr Gathercole to further support his application, the contents of which raised additional concerns.

In the third paragraph of the supporting statement the applicant states; *The off sales list would specifically consist of coffees, ice cream tubs etc and which would be mostly sold to pedestrians passing by and for pedestrian shoppers to take home for their freezers. Deliveries, if required, would be made by bike, using either my tricycle (see images attached), which I currently use for markets and deliveries, or possibly the Deliveroo bike delivery service. This removes the need for delivery by vehicles (also, being eco-conscious, I am intending to travel to work by bicycle once in Brighton).*

In the fourth paragraph of the supporting statement the applicant says; *It is noteworthy to state that I started this business 14 months ago and currently sell on-line, at markets and at events (private and public) and, to date, have not had any reports of issues regarding intoxication or improper consumption by under 18's.*

The website for this business ([Heres the scoop \(mrtipsyicecream.co.uk\)](https://mrtipsyicecream.co.uk)) states that the tricycle proposed to be used for delivery of Off sales within Brighton and Hove, is adapted with a prosecco tap. A moveable structure cannot be licensed itself under the Licensing Act 2003 when moving to multiple different locations.

I contacted Guildford Licensing team to ask if Mr Gathercole held a Premises Licence with their authority as his statement asserts, he started his business 14 months ago and currently sells on-line, at markets and at events (private and public). I was advised by the Licensing Team leader on 1st February 2021, that Mr Topsy Ice Cream was registered with their Authority as a food business and Mr Gathercole holds a Personal Licence issued by Guildford Borough Council. I was advised Mr Gathercole had enquired in the past about

what is entailed and had been advised by Guildford Licensing team that the sale of alcoholic ice cream requires an authorisation under the Licensing Act.

However, their records show he does **not** hold a Premises Licence with their Authority and they have no records of Temporary Event Notices being submitted recently. Therefore, it would appear the applicant may have been trading without the correct authorisation for the last 14 months selling alcohol.

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

Under the Health data Queen's Park ward ranks worst for A&E attendances with a record of alcohol and second worst for Increasing risk or high risk drinking and Clients in Alcohol treatment and third worst for Alcohol suspected ambulance call outs.

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

Licensing Officer, Licensing Team, Environmental Health and Licensing, Regulatory Services.

