

## **APPENDIX C**

**From:** REDACTED

**Sent:** 27 May 2021 11:50

**To:** REDACTED

**Subject:** Re: 11 Duke Street Brighton MALO Ltd Sale of Alcohol Licence Application

### **SC CON ENDS 16.06.21 VALID PCD & CIZ (A)**

To Whom it May Concern

Re: MALO Ltd Sale of Alcohol Licence Application

We wish to express our concern regarding the recent application for sale of alcohol on and off the above premises.

We feel there are already substantial outlets in the street selling alcohol. The property is within very close proximity of a primary school and it is not appropriate for alcohol to be sold for such long hours. It also encouraging the growing drink culture and could lead to antisocial behaviour within the vicinity.

We have traded from REDACTED property for over 30 years and the street is now full of restaurants and food and drink outlets, bringing further rubbish, takeaway traffic and food odours with them. It is changing from the high-quality destination it used to be, and for what we have over the years paid hundreds of thousands of pounds in high value business rates.

We are sure you understand why we feel let down by all of this. Perhaps if there is a continued trend towards making this area more of a 'food quarter' you could assist us by offering a grant to help us move our business to a more appropriate area within the city. Please can you let us know how we can access information on any assistance of this sort that is available to us?

We hope you very responsibly consider the application for the further selling of alcohol in this area and the negative impact it will have.

Thank you and we look forward to hearing your comments.

Kind regards

REDACTED

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

Date: 9 June 2021  
Our Ref: REDACTED  
Phone: REDACTED  
e-mail: REDACTED

## **SC CON ENDS 16.06.21 VALID PCD, PPN & CIZ (B)**

Dear REDACTED

### **Licensing Act 2003 Malo, 11 Duke Street, Brighton.**

I wish to make a representation against a new application for Malo, 11 Duke Street, Brighton. The application is for a premises licence for the sale of alcohol both on and off the premises from Monday to Sunday 09:00 – 00:00. The proposal is to operate as a restaurant and take away with alcohol sales.

The grounds for the representation are that it is contrary to the Council's Statement of Licensing Policy (SoLP) as the premises falls within the cumulative impact area and may undermine the Licensing objectives of the prevention of crime and disorder and the prevention of public nuisance

The Licensing Authority's Cumulative Impact area (CIZ) was adopted to give greater power to control the number of licensed premises within the city centre. 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 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 Council's SoLP 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 Matrix Model, states that in the cumulative impact area, restaurants are considered favourably until midnight and this application falls within this, however the applicant also wants to provide off sales and a delivery service which includes alcohol and the matrix does not support takeaways in the CIZ.

The policy 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.

The applicant has not referred to the cumulative impact area in the application however they have proposed conditions to uphold the Licensing Objectives by operating Challenge 25 and staff training. Their operating schedule does not include any Restaurant or Café conditions as per our SoLP.

When considering whether representations should be submitted, the Licensing Team have regard to the 'Public Health Framework for assessing Alcohol Licensing' – January 2019 document. The premises sits within the Regency electoral ward

The document states that Regency ward is recorded as the worst ward out of 21 for All violence against the person and All injury violence. Second worse for Police recorded alcohol related incidents, Alcohol suspected ambulance call outs and A&E attendances with a record of alcohol.

The Licensing Team therefore makes this representation to uphold the council's Statement of Licensing Policy, which we believe this application contradicts and we wish to bring the application to the attention of the panel so that they can decide whether this application constitutes exceptional circumstances to depart from the policy.

Yours sincerely,

REDACTED

## RESPONSE BY APPLICANT

10<sup>th</sup> June 2021.

To whom it may concern,

My name is REDACTED and I am writing this letter as REDACTED Malo Brighton LTD in relation to the Representation made by Emma Grant on the 9<sup>th</sup> June 2021.

Whilst I fully understand the reasons and concerns behind REDACTED Representation and the positive effects of having a Cumulative Impact Policy in Place, in this letter I would like to inform you of all the steps we are willing to take so that the Premises Licence we are applying to for 11 Duke Street in Brighton will have no negative Cumulative Impact.

Firstly, I want to point out that Malo is a small venue where the selling of alcohol is not the primary activity. The focus is on the selling of Empanadas, a traditional handmade Argentinian delicatessen. As a family of Argentinians, by the opening of Malo, we want to give people the chance to discover and learn more about the gastronomy of our country. I believe my business can add to the cultural aspect of Brighton and attract a diverse range of customers from different communities given that our products are not available in any other premises located in the area.

The intended supply of alcohol carried out at Malo, involves the selling of high-quality authentic Argentinian alcoholic beverages that are imported directly to Malo from leading brands. At Malo we also intend to organise high-end wine tasting with premium Argentinian wineries such as Catena Winery, Rutini Winery and Bianchi Winery. By doing so, Brighton residents and visitors will be given the possibility to try high quality beverages that are unique and hard to find as these are not sold anywhere else in the City.

Given how important it is for Malo to ensure the prevention of crime, disorder and public nuisance, should the application be granted, Malo commits to, in addition to the already established points in the original application, to implement the following conditions:

- Alcoholic beverages for consumption off premises and for delivery, will only be supplied when purchased together with food. The delivery will only be made by a reputable courier with a robust "Challenge 25" policy.
- All staff (who consist of REDACTED) will be regularly trained and refreshed in the relevant requirements of the Licensing Act before the sell or supply of alcohol. Records of this training shall be kept and made available immediately under request.
- Malo ensures that no alcohol will be sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- The premises will install and maintain a comprehensive CCTV system in line with Sussex Police approved standards that will record all entrances and exits to the premises at all times the premises are open for licensable activities. Viewing of recordings will be made available immediately upon the request.
- Prominent, clear and legible notices will be displayed at exits requesting the public to respect the needs of nearby residents and to leave the premises and the area quietly.
- As the selling and consumption of alcohol is not Malo's primary activity, no display containing alcoholic beverages that could encourage customers to enter the premises just to consume or purchase alcohol, will be located at the window display and entrance/exit point.

- In order to fit into the SoLP conditions for restaurant or café, I am willing to modify the premises operating schedule as the Council suggest is best to further help the prevention of crime, disorder and public nuisance.

I would like to reassure you that all these changes will be implemented just as I have responsibly implemented all the necessary measures in my other business REDACTED – a highly rated steakhouse which attracts people in to the City looking for good quality Argentinian gastronomy - which is also located within the Cumulative Impact Zone area at REDACTED in Brighton, and where we have never had any problems or received any complaints regarding noises, disturbances or issues related to the selling and consumption of alcohol.

I hope that these additional measures ease your concerns. Should you have any queries in respect of the above, please do not hesitate to contact me on REDACTED

Kind regards,

REDACTED

15<sup>th</sup> June 2021

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

**SC CON ENDS 16.06.21 VALID PCD, PPN, PCH & CIZ (C)**

Dear REDACTED,

**RE: APPLICATION FOR A NEW PREMISES LICENCE FOR MALO, 11 DUKE STREET,  
BRIGHTON, EAST SUSSEX, BN1 1AH UNDER THE LICENSING ACT 2003.  
1445/3/2021/01490/LAPREN.**

I write on behalf of the Chief Officer of Police for Sussex to raise a representation against the grant of the above application on the grounds that it will undermine the Licensing Objectives of the prevention of crime and disorder, the protection of children from harm and public nuisance. We also make reference to the Brighton & Hove City Council (BHCC) Statement of Licensing Policy (revised January 2021) and the Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018).

This is a proposed new 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 (CIZ) (as defined in the BHCC Statement of Licensing Policy) and seeks the following hours and licensable activities:

**Sale by Retail of Alcohol (On and Off the premises)**

**Everyday:** 09:00 – 00:00

**Late Night Refreshment**

**Not applied for within the application – but description on application states they are to be a ‘takeaway/restaurant....serving and preparing for delivery Argentinean Food’**

**Opening hours**

**Everyday:** 09:00 – 00:00

Paragraph 3.1.3 of the Brighton and Hove City Council 2021 Statement of Licensing Policy states that:

*‘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.’*

This premises lies within Regency Ward which, as evidenced by the Brighton & Hove Public Health Framework for Assessing Alcohol Licensing (published January 2019), is ranked number 1 for All violence against the person, All injury violence, Non-injury and Sexual offences. This ward is also ranked number 2 for Police recorded alcohol related incidents and number 3 for Criminal damage, demonstrating the higher risk to the Licensing Objective of the Prevention of Crime and Disorder in this area.

The licensing decision matrix on page 16 of the Council Statement of Licensing Policy (SoLP) suggests that new premises or premises licence variations asking for the off sale of alcohol and with no offered conditions to define them as a 'restaurant' are a 'No' in the Duke Street area.

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

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

There is also confusion around the business model of this premises as Late Night refreshment has not been applied for despite the applicant describing the premises as a 'restaurant/takeaway'. At present they are proposing to serve alcohol until 00:00 both on and off the premises but cannot provide any accompanying food between 23:00 and 00:00.

Paragraph 14.40 of the Secretary of State's Guidance to the Licensing Act 2003 (April 2018) provides:



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

The applicant did not pre consult with Sussex Police and has not addressed any of the local concerns or offered particular reasoning as to why their application would be an exception to policy or why the SoLP matrix should be departed from. The limited information under Section 18 of their application offers minimal workable conditions and Sussex Police do not believe these go far enough to help mitigate any potential risk in this area of the City. The conditions offered fall far short of the current city wide expected standard and there is no mention of any crime prevention measures such as CCTV provision, regular staff training around the sale of alcohol or any measures restricting the sale of alcohol to be ancillary to a table meal e.g. a restaurant set up. There are also concerns around delivery of alcohol within the CIZ and beyond as no conditions have been offered around preventing the sale of alcohol to children or refusing delivery of alcohol to public spaces.

Sussex Police do not believe the application in its current form addresses the concerns raised and therefore is at risk of undermining the prevention of crime & disorder, the protection of children from harm and public nuisance Licensing Objectives. Sussex Police additionally contend that the carrying on of additional licensable activity and the hours applied for at these premises will add to the existing negative cumulative effect in an area already saturated with licensed premises.

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

Yours sincerely,

REDACTED