

Appendix C

REP A

CH CON ENDS 10.07.2023 VALID PCD, PCH, CIZ & PS



Sussex Police
Serving Sussex

www.sussex.police.uk

Sussex Police Headquarters

Malling House,
Church Lane, Lewes,
E. Sussex,
BN7 2DZ

Telephone: 101 | 01273 470101

Email: brighton.licensing@sussex.pnn.police.uk

Police Station
John Street
Brighton
BN2 0LA

27th June 2023

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

Dear Corinne Hardcastle,

RE: APPLICATION FOR A VARIATION OF THE PREMISES LICENCE FOR MOLLY MALONES, 57 WEST STREET, BRIGHTON, EAST SUSSEX, BN1 2RA UNDER THE LICENSING ACT 2003. 1445/3/2023/02214/LAPREV.

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, protection of children from harm and public safety. 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 (December 2022).

This is a proposed variation 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 to amend the conditions that were placed on the licence by a Consent Order following a Section 53a Review of the premises licence in July 2021. These conditions were discussed at great length and agreed by both parties as part of an appeal hearing at Brighton Magistrate Court in May 2022. They were intended to ensure the premises could operate in a safe way following a very serious incident that led to the premises licence

being suspended as an interim step and where revocation was initially requested. 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.'
Paragraph 14.40 of the Secretary of State's Guidance to the Licensing Act 2003 (December 2022) 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.'

Additionally, this premises lies within Regency Ward which, as evidenced by the Brighton & Hove Public Health Framework for Assessing Alcohol Licensing (accessed at <https://public.tableau.com/app/profile/brightonhovepublichealthintelligence/viz/PublicHealthFrameworkforAssessingAlcoholLicensing/NavigationPage>) 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 applicant did not pre consult with Sussex Police prior to the submission of this variation application and no rationale has been provided within the variation forms as to why the removal of these conditions is requested. Sussex Police believe this variation shows a continued lack of understanding around safeguarding concerns in the area and keeping people safe in the night time economy. Local concerns and issues that the area of West Street attract remain and no alternative provisions or conditions have been offered to mitigate that potential harm.

The application is consequently at risk of undermining the prevention of crime & disorder, protection of children from harm and public safety Licensing Objectives. Furthermore, Sussex Police contend that the carrying on of additional licensable activity by amending the licence to remove certain restrictions and requirements, previously defined at a Licensing hearing, 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. We reserve the right to submit and include previous documentation and evidence relating to the Section 53a Review and subsequent appeal prior to any hearing to decide this Variation.

Yours sincerely,

**C/Insp Michelle Palmer-Harris
Operations (inc. Licensing) Chief Inspector
Brighton & Hove Division
Sussex Police**

REP B

CH CON ENDS 10.07.2023 VALID PCD & PCH

Mrs Hardcastle
Licensing Authority
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BN11JP

Date: 30 June 2023
Our Ref: 2023/01246/LICREP/EH
Phone: REDACTED TEXT
Email: REDACTED TEXT

Dear Mrs Hardcastle

Licensing Act 2003

Representation to the application for a Variation of a Premises Licence

Reference: 2023/02214/LAPREV

Molly Malones, 57 West Street, Brighton BN1 2RA

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 a variation application made on behalf of Indigo Leisure Limited for the premises of Molly Malones, 57 West Street, Brighton BN1 2RA.

This representation is made as the Licensing and Trading Standards Team have concerns that the licensing objectives of the Prevention of Crime and Disorder and Protection of Children from Harm are not being upheld.

In November 2014, Molly Malones was subject to a Review Hearing, following the premises failing an underage sales test purchase operation.

On 6 July 2021, an expedited review was brought by Sussex Police on the basis that the premises were associated with both serious crime and serious disorder. The incident involving serious crime and disorder took place in the early hours of the 6 July 2021.

On 3 August 2021, a decision was made at a Licensing Panel Review Hearing to revoke the Premises Licence.

This decision was appealed by the premises licence holder. The premises remained closed for almost a year before the appeal was heard at the Magistrates' Court on 3 May 2022, as an alternative to revocation a Consent Order was agreed by all parties for a change to the operations and a number of safeguarding conditions. The application submitted seeks to remove 3 of these conditions which were a key part of that Consent Order. (Please see below):

1. From midnight each day the premises shall operate as a dedicated and bona fides (non-DJ) live music venue and/or associated staged cabaret space. The sale of alcohol shall be ancillary to the provision of and /or presentation of live music

and/or cabaret events. At these premises live music will not include DJ presentations. For the avoidance of doubt the sale of alcohol shall end at the conclusion of the programmed live music and/or cabaret entertainment. Save in genuinely exceptional circumstances (for example, but not limited to, a failure of performer/s to attend) of which there can be no more than 21 occasions per calendar year. A record of each exemption and the reason for it shall be retained at the premises and shall be available for inspection by the licensing authority and the police on request.

5. The premises shall install a recognised electronic identification scanning system for customers entering the premises. The system shall be operated from 22:00 and all persons who appear to be under 30 entering the premises will be scanned. The system should have the ability to share alerts with other venues using similar ID scanning equipment, identify the hologram of an ID and read both Passports and ID cards, including PASS cards. The system should be able to conduct tests to determine if a document is genuine or counterfeit. The system must be compliant with the Information Commissioner's good practice guidance for ID scanning in clubs and bars.

Entry to customers who appear to be under the age of 30, without ID, shall be risk assessed and admitted to the venue on the discretion of the door entry team on duty. The name, date of birth, of these customers shall be recorded and a photographic image obtained. This information shall be made available to the police or licensing authority on request.

6. The premises will adopt and operate a daily last entry time of 2:30am

Prior to this application being submitted, no consultation has been made by either the Premises Licence Holder or the Legal Representative, and no rationale or explanation given within the variation application for why they want to remove these conditions that were agreed to in May 2022.

The Licensing and Trading Standards Team consider that removing these conditions would undermine the licensing objectives of Prevention of Crime and Disorder and Protection of Children from Harm. We therefore invite the panel to refuse the application.

We reserve the right to produce further evidence from either the review hearing or appeal at a later date.

Yours sincerely

REDACTED

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

Licensing Panel Decision dated 3 August 2021

Date: 3rd August 2021

Dear Sir or Madam,

RE: Licensing Act 2003 – Licensing Panel Hearing Notification of the Determination of Panel.

Licensing panel hearing held virtually via Teams on Tuesday the 3rd August 2021 in respect of the Summary Review of a premises licence in respect of premises known as Molly Malones, 57 West Street, Brighton, BN1 2RA

The panel have considered this application for summary review with accompanying certificate, and further representations and supporting information from both the police as applicant for the review and the premises licence holder. The relevant representations have also been considered. The panel have had regard to the S182 Guidance and the Council's Statement of Licensing Policy.

The summary review is brought by Sussex Police on the basis that the premises are associated with both serious crime and serious disorder. The incident involving serious crime and disorder took place in the early hours of the 6th July 2021. Full details of this incident are in the papers before us. Interim steps have been taken to suspend the premises licence pending this review hearing. 2 relevant representations have been received from the licensing team and the Children's safeguarding Team on the grounds of the prevention of crime and disorder and protection of children from harm. Revocation of the licence is sought.

The panel has listened carefully to all the submissions made today. From the police it was conceded that the incidents at the premises since July 2020 would not have in themselves founded a review application but taken with the event on the 6th July 2021 which was so serious they illustrate failures and longer term issues at the premises and together make the case for serious management failure and revocation. There was also the previous review of the licence in 2014 regarding underage test purchase.

Detailed submissions were made on behalf of the premises licence holder by their barrister. It was submitted that the 6th July 2021 was a cataclysmic one-off event which had sent shock waves through the premises but was not illustrative of systemic management failure. Indigo Leisure Ltd were responsible licence holders with solid training and management

procedures. These were documented in the paperwork. They held 18 licences, 17 across the city. The licence holder intended to have a new security firm in place and a new DPS due to the previous one moving on. It was submitted that revocation of the licence was not proportionate or justified on the evidence and should only be a last resort. Since the last review in 2014 the premises had not failed a test purchase and had been tested prior to the pandemic regularly by Serve Legal.

The panel must take such statutory steps under the Licensing Act 2003 (Section 53C) in response to the review as are appropriate to promote the licensing objectives. The panel has given consideration to all the options open to it.

The panel has been able to question the licence holder and managers about their practices and procedures. Much emphasis was placed on behalf of the licence holder of the wider policies and practices of Indigo Leisure Ltd. The panel consider not enough focus has been put on these particular premises which are situated in the heart of the city's nighttime economy. It transpired that on the night of the incident a relatively junior 'supervisor' was in charge rather than a fully-fledged manager in the early hours and that this was fairly common practice. There were clearly serious management and staff failures on the 6th July which permitted the 16 year old to gain access and remain in the premises. It is suggested that just 2 staff were responsible for this failure but the licence has a whole raft of conditions requiring regular surveillance and checks in the premises by all staff and yet these were not sufficient to prevent the serious incidents. There were clearly considerable failures on the part of the door staff at the premises on the 6th July and one of them working there referred to as the 'rogue door man' was already banned from working at the premises due to previous issues and this should have been prevented. The panel considers that better communication between managers and staff at different levels would have provided for a safer environment and would for example have prevented the doorman in question from working at the premises that evening.

Overall, the panel considers that too much emphasis has been placed on the wider credentials of Indigo Leisure Ltd rather than focus upon the effective management of these particular premises. Despite all the wider practices and training the panel does not consider that the management at the premises was strong enough to deal with the particular challenges these premises faced in this very sensitive location with prolonged late hours for licensable activities. The incidents over the last year which although in some aspects are contested by the licence holder, do reveal failures in systems and procedures. There are some themes which run through, such as intoxication and violence including sexual assault and an inability to control the behaviour of the clientele. The panel consider that there has been a breakdown in management over the last year and that this is a contributory factor leading to the events of the 6th July 2021. The panel must take such action as is necessary to promote the licensing objectives and, in this case, regrettably the panel consider that revocation of the licence is necessary to protect the public and to deter further crime and disorder. The panel does not consider that adding further conditions such as an ID scanner or reduced hours, both of which were canvassed with the licence holder, would be effective in addressing the panel's concerns. The decision is therefore to revoke the licence.

In terms of the review of the interim steps, namely the current suspension of the licence, the panel has decided that these shall remain in place until the decision made on this review comes into effect – i.e., for 21 days assuming no appeal is brought, or if such appeal is brought until the appeal is disposed of. The panel has considered the submissions made on behalf of the licence holder that the interim steps could be lifted even if the licence is

revoked but the panel consider it is appropriate to promote the licensing objectives and protect the current position to maintain the current suspension of the licence.

Yours faithfully

Legal adviser to the panel

Approved Consent Order from Brighton Magistrates' Court dated 3 May 2022

In the Brighton Magistrates' Court

In the matter of s 181 and Sch 5 of the Licensing Act 2003 Between:

Indigo Leisure Ltd
(t/a Molly Malones, 57 West Street, BN1 2RA)

Appellant

And

Brighton & Hove City Council

Respondent

Consent Order

- [1] From midnight each day the premises shall operate as a dedicated and bona fides (non-DJ) live music venue and/or associated staged cabaret space. The sale of alcohol shall be ancillary to the provision of and / or presentation of live music and/or cabaret events. At these premises live music will not include DJ presentations. For the avoidance of doubt the sale of alcohol shall end at the conclusion of the programmed live music and/or cabaret entertainment. Save in genuinely exceptional circumstances (for example, but not limited to, a failure of performer/s to attend) of which there can be no more than 21 occasions per calendar year. A record of each exemption and the reason for it shall be retained at the premises and shall be available for inspection by the licensing authority and the police on request.

- [2] The premises will operate with a minimum of two managers, an operational manager and a general manager, one of whom will be the DPS. Each manager will be contracted to work for a minimum of three evenings per week. On occasions when the managers are not working a shift manager will be on duty. All managers must hold a personal licence.
- [3] A premises Manager and the Area Manager (or in exceptional circumstances her nominated representative) shall attend the quarterly scheduled meetings of the BCRP (or similar successor body).
- [4] A minimum of One SIA Door Supervisor will be on duty when one or two floors are being used from Sunday to Thursday from 22:00.
- [5] ***The premises shall install a recognised electronic identification scanning system for customers entering the premises. The system shall be operated from 22:00 and all persons who appear to be under 30 entering the premises will be scanned. The system should have the ability to share alerts with other venues using similar ID scanning equipment, identify the hologram of an ID and read both Passports and ID cards, including PASS cards. The system should be able to conduct tests to determine if a document is genuine or counterfeit. The system must be compliant with the Information Commissioner's good practice guidance for ID scanning in clubs and bars.***
- Entry to customers who appear to be under the age of 30, without ID, shall be risk assessed and admitted to the venue on the discretion of the door entry team on duty. The name, date of birth, of these customers shall be recorded and a photographic image obtained. This information shall be made available to the police or licensing authority on request.***
- [6] The premises will adopt and operate a daily last entry time of 2:30am.
- [7] Within 21 days of reopening all premises management staff are required to attend an external safeguarding course. New premises management staff are required to attend an external safeguarding course within 6 weeks of commencing their work duties. All other staff are required to complete internal safeguarding training before commencing work duties as part of their induction. Internal refresher training, for all staff, to be undertaken at regular intervals of no more than six months. Copies of the external training attendance and refresher training records shall be retained at the premises and shall be available to the Police or Licensing Authority upon request.
- [8] The Premises shall have in place a written comprehensive safeguarding policy which shall also include a copy of the internal staff training. This policy shall be kept under review and kept updated as needed. The

safeguarding policy shall have regard to the most current Brighton & Hove Statement of Licensing Policy and the Night-time Economy Safeguarding Initiatives. A copy of the safeguarding policy shall be retained at the premises and shall be available for inspection by the Licensing Authority and the Police upon request.

No Order as to Costs

Consent Order is approved

Brighton Magistrates Court

