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Dear Sir/ Madam

BRIGHT AND HOVE COUNCIL – ALCOHOL LICENSING CUMULATIVE IMPACT ASSESSMENT (CIA) 2023

On behalf of our Client Abrdn, we write to submit representations to Brighton and Hove City Council (BHCC) consultation on the Cumulative Impact policy as part of the periodic 5-year review. These representations focus on Abrdn's ownership and management of Churchill Square Shopping Centre in Brighton City Centre.

The following representations provide our client's view on how Churchill Square fits into the current Cumulative Impact Assessment (CIA) policy and highlights possible areas of improvement and provide comments detailing our position in relation to possible amendments where appropriate.

BACKGROUND TO REPRESENTATION

Montagu Evans has acted on behalf of the owners of Churchill Square Shopping Centre for over a decade and is active across the City on a variety of sites and relating to different uses. These representations draw upon that experience in and in other centres and large towns in the country where the nighttime economy is a major driver of economic activity but also where there are competing priorities because of the juxtaposition of a mix of uses. Our client Abrdn recognises the particular challenges faced by Brighton with respect to managing the effects of cumulative impact from both a licensing and planning perspective as well as the opportunities to respond positively to this consultation.

Through our involvement in preparing and presenting the case for Abrdn's recent application at Churchill Square (Ref: BH2022/01639), we understand the commonality of cumulative impact issues between planning and licensing and the need to co-ordinate approaches.

While we appreciate the consultation is licensing-led, cumulative impact policy has an important impact and potentially raises a conflict with the aim to preserve the vitality of town and city centers by diversifying uses beyond retail and the main leisure uses such as cinemas and family entertainment.

Therefore, we consider our representations will provide an important insight into how the approach to assessing Cumulative Impact could support the determination of both licensing and planning applications through a spatially responsive and flexible system that aligns with the strategic priorities supporting the City Centre. We consider that as part of this consultation, there exists a strong opportunity to create a more well-rounded cumulative impact policy through an integrated approach to address cumulative impact issues more effectively.

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Within the defined cumulative impact zone (CIZ), the approach applied to assessing impact does not take into account the unique characteristics of certain location such as Churchill Square for example. On this basis, we feel that Churchill Square is currently being restricted from accommodating a more diverse F&B offering which would assist it significantly being able to remain as a major attraction for visitors and local residents, it should be subject of a more bespoke approach to attract premium lower impact operators that offer experience-led destinations, with a very different offering to typical pub and bar uses.

It is important to note that our client is not seeking amendments to the policy that results in a significant increase in bars and pubs in the adjoining areas which could affect the environment, however, does believe there is scope to amend the policy to allow Brighton and Hove to benefit from the controlled expansion of such uses in locations like Churchill Square.

CURRENT POLICY POSITION

The Licensing Act 2003 provides the relevant legislation which governs the sale and supply of alcohol in England and Wales. The Act has four licensing objectives:

- the prevention of crime and disorder.
- public safety.
- the prevention of public nuisance.
- the protection of children from harm.

Under the Act, licensing authorities are responsible for premises licences and club premises certificates.

Section 5 of the 2003 Act requires a licensing authority to publish a statement of its licensing policy at least every five years. The primary purpose of a CIA is to support the authority in controlling the licences in areas where evidence demonstrates the number or density of licensed premises may be contributing to problems that are undermining licensing objectives and exacerbating the effects of cumulative impact.

The Statement of Licensing Policy identifies a Cumulative Impact Zone, within which a 'special policy' to assess the potential for cumulative impact will be applied. The currently adopted cumulative impact policy sets a presumption that new and variation applications for premises that are likely to add to the cumulative impact will normally be refused unless the applicant is able to comprehensively demonstrate in their operating schedule that granting the application will not undermine one or more of the licensing objectives. We understand the cumulative impact policy to refuse an application can only be invoked if the council receives representations from residents, interested parties or responsible authorities regarding the granting of a new premises licence of varying an existing licence. However, the effect of current policy is a presumption against new licences being granted.

The first Special Policy incorporating a Cumulative Impact Zone (CIZ) and Special Stress Areas (SSA's) were adopted in March 2008. Since that date, the licensing authority has kept the CIZ and SSA's under review. On 15 December 2011 Full Council resolved to expand the CIZ and the special stress area, covering 1.5% of the administrative area of Brighton & Hove City Council. On 20th November 2014 Licensing Committee resolved to confirm the current CIZ and SSA as defined

in the current Statement of Licensing Policy. On the 29th November 2018 Licensing Committee resolved to expand the SSA into Central Hove.

CRITIQUE OF MATRIX APPROACH

The Statement of Licensing sets out a 'matrix approach' to licensing decisions, whereby licensable activities are split into types of use (restaurant, café, late night takeaway, night club, pub etc.) for which varying degrees of restriction apply. Within the CIZ, restaurants will be permitted until midnight and cafes will be permitted until 22:00. Other uses, such as pubs and night clubs will not however be permitted.

The supporting text at paragraph 3.3.1 confirms the authority will support the diversification of licensed premises to attract a greater breadth of customers to create a positive ambience across the city. Further, the supporting text to the matrix approach notes that each application will be considered on its individual merit and that departure from the matrix policy will only be permitted in exceptional circumstances.

We note the matrix approach categorises more premises types, which when first conceived, reflected relevant uses. However, an increasing number of premises, particularly those considered to be more premium offers are providing an experience-based offer that do not neatly fit into the categories listed in the matrix. In our view, while the uses set out in the matrix are broadly representative of uses which may contribute to cumulative impact, they do not suitably define premises that provides a high-end experience destinations in heavily managed locations that do not focus on consuming large quantities of alcohol. As a result, we believe that some uses may be subject to unnecessary restrictions on the basis of being considered to fall within a category that is not truly reflective of their operation, business model or environment in which they wish to be located. Therefore, to support uses that fall between those defined in the matrix, we would suggest policy allows for applicant where possible to provide data such as pricing of beverages and the analysis of consumption statistics. At present, we note that such a flexible approach is not feasible with departure from the matrix approach allowed only in exceptional circumstances.

Given that the approach fails to account for offers that don't neatly fit into the categories/ premises it lists, we believe this approach imposes unnecessary restrictions upon take-up of new uses within Churchill Square and potentially offer well managed environments which is acknowledged as a key destination that supports the overall strength of Brighton and Hove.

The limitations of the existing matrix approach also relate to the spatial context of different locations within the CIZ. More specifically, given the consistent application of policy across the defined CIZ, it fails to reflect the dynamic nature of evolving town and city centres and the influx of F&B/ leisure premises brought about by changing consumer demands which are not dominated by bars which take up a disproportionate amount of police resources. The importance of recognising the characteristics of an area within cumulative impact policy is particularly pertinent in the case of Churchill Square. As the City's primary shopping centre within a prominent location, Churchill Square served as key visitor attraction.

CUMULATIVE IMPACT ZONE BOUNDARY

Cumulative impact zones are areas that we have designated to control licensable activity. As we understand the extent of the CIZ has been expanded from the 2016 to 2021 policy. As such the CIZ coverage is very broad and effectively encompasses all of the city centre, within which a blanket approach to assessing cumulative is employed for each application which falls within this defined area.

As the approach to special policy is consistent across the CIZ, it simply is not possible for it to be reflective of the unique properties of different areas within the City which would benefit from different approaches when managing the expansion of F&B and leisure uses. In our view, the lack of a spatially responsive policy approach to assess cumulative impact dovetails with the significance of Churchill Square as a unique space which is distinguishable from other areas of the city.

Whilst Churchill Square does fall within the defined Cumulative Impact Zone (CIZ), it is located away from the main concentration of drinking establishments to the east, along and beyond West Street. This is demonstrated in the latest evidence base supporting the consultation. As depicted in the Figure 1 below, there is a distinct lack of both on and off licenced premises. Whilst the Site is located within the defined Cumulative Impact Zone (CIZ), it is located away from the main concentration of drinking establishments to the east, along and beyond West Street

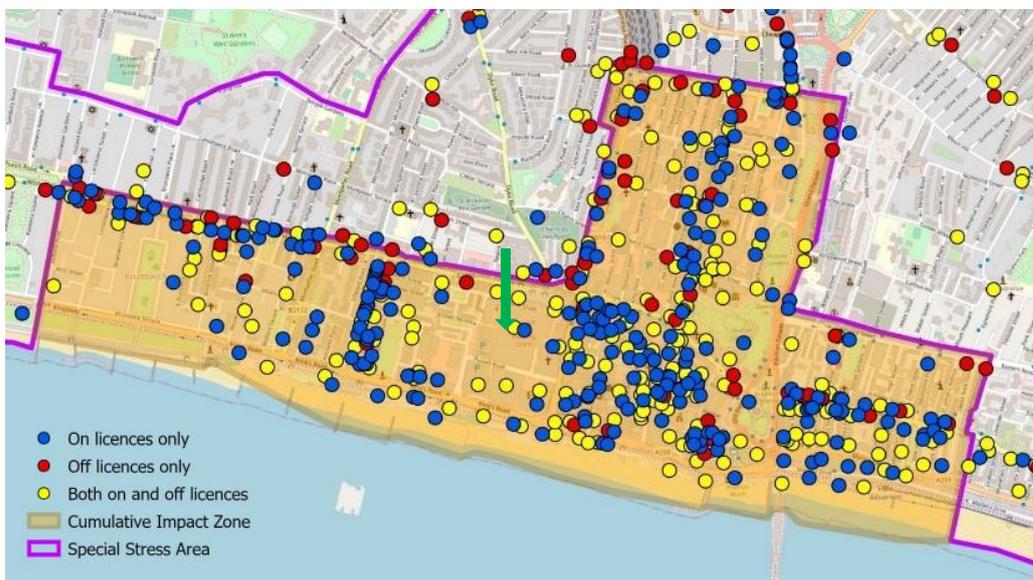


Figure 1: Appendix C Extract - CIZ SSA and all alcohol licensed premises April 2023

The area surrounding Churchill Square is predominantly commercial in nature, with relatively few sensitive receptors located in proximity. Given the spatial context therefore and subject to the appropriate considerations, we believe there is a clear capacity for Churchill Square to accommodate such uses and effectively manage their impacts. However, the binary nature of cumulative impact policy within the CIZ does not allow for such capacity to be explored and consequently inhibits any possible diversification of uses to include a stronger F&B offering within the Shopping Centre.

Given Churchill Square represents a key focal point within the City and a major attraction for visitors and local residents, it should be subject of a more bespoke approach to Cumulative Impact. From our experience with Botanist application, it is evident there is an appetite in this location from premium operators delivering experience-led destinations, the associated impacts of which are far less than typical pub, bar and restaurant uses and can be managed effectively by the shopping centre management team.

In line with clear trends in spending data, our client has noted an unprecedented change in the retail sector, particularly in respect of the growth of non-retail services, food and beverages outlets and new leisure activities offering a broader range of experiences for visitors. A more diverse offer to shoppers will continue to be increasingly vital for many types of centres over the next fifteen years, as will the importance for town centres to broaden their experiential offer. We believe that

presently, the adopted licensing policy represents a barrier preventing Churchill Square's ability to adapt to the changing retail landscape in city centre locations which directed towards the need to accommodate for growth of food/beverage, cultural/ entertainment uses. The inability for our client to curate Churchill Squares offer in response to changing consumer preferences and broader demands will likely have detrimental impacts upon the wider city.

For the reasons set out above, we consider that Churchill Square should be excluded from the CIZ and would request the Local Authority consider this amendment. We note that should the CIZ be amended in this regard, the Authority will still retain an ability to manage cumulative impact as Churchill Square will still fall within the Special Stress Area (SSA). Further, we would argue that Churchill Square as a location is more suitable for the SSA in that it will not be subject to a presumption for refusal. Instead, it will provide opportunity for operators to form an evidence case that demonstrate they will not result in new or accentuate exiting levels of harm in this location. As such, the SSA promotes a more positive approach whilst not relinquish the ability for the Authority to refuse or impose conditions to manage the impact of development.

PROPOSED ZONAL APPROACH

Should it be concluded the CIZ boundary cannot be amended, we consider that as an alternative, a zonal approach that distinguishes different areas of the City should be introduced. This would be effective in accounting for the different characteristics of different areas across the CIZ and ultimately deliver a more well-informed cumulative impact policy. In addition, assessing cumulative impact at a more granular level through a zonal system would also compliment the matrix approach by identifying what types of uses would be suitable in different locations within he CIZ.

We consider a logical starting point for understanding how a zonal would be defined by analysing the latest Police data/ maps set out in appendix C of the consultation which identify concentrations of crime and corresponding risk of impact across the area. When overlaying the maps of existing premises and the heat map of noise complaints against licensed premises, clear correlations between the occurrence of crime and density of premises are visible. As such, in areas where the crime and disturbance are low together with a low concentration of premises, it would be appropriate to identify an area appropriate for greater flexibility.

To operate alongside a zonal system, we consider some form of criteria-based assessment would be effective whereby the suitability of proposals within different parts of the CIZ can be assessed subject to compliance with location specific requirements.

We are confident that these proposed changes to assessing cumulative impact would refine the current approach to assessing cumulative impact that accounts for the increasingly varied nature of F&B/ Leisure uses and also reflects the different characteristics of different parts of the City.

In the case of Churchill Square, we believe it is distinguishable from other locations in the CIZ on account of the on-site security and 24/7 management the shopping centre benefits from. We note that other areas of the city subject to the same cumulative impact policy area are largely single buildings which simply so not have the resources to be able to control the impact of their premises in the same way.

CONCLUDING REMARKS

In respect of the current approach to special policy for cumulative impact, our client supports the provision of greater clarity to applicants to reduce the barriers for incoming occupiers within areas such as Churchill Square. Improved transparency

between applicants and local authority (particularly on key areas of the city) on key metrics will ultimately deliver more appropriate end uses.

We recognise the importance of managing cumulative impacts across the City, however in the context of areas such as Churchill Square consider the approach should be balanced and not inadvertently create significant barriers to diversification which is integral to continued success of the City's major shopping centre.

We would however suggest that where appropriate the methodology include a matrix system to allow for categorisation of a broader range of F&B uses to enable applicants and stakeholders to better understand what can be accommodated. In addition, we believe the CIZ could easily be made a more effective tool in the CIA process by implementing a zonal system responds to spatial context and thus offers a more tailored approach.

We are of the view the view that amending the cumulative impact policy in this regard would represent a positive change that creates clearer pathway for premium offers at Churchill Square and other areas across the city.

We would be pleased to discuss these suggested changes.

Yours sincerely,

Montagu Evans

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