

Appendix D

**REP A**

Police Station

John Street

Brighton

BN2 0LA

Tel: 01273 404535 ext REDACTED

Email: brighton.licensing@sussex.police.uk

EF CON ENDS 28.12.2023 VALID PCD, PS and CIZ (A)

19th December 2023

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

Dear Emily Fountain,

**RE: APPLICATION FOR A VARIATION OF THE PREMISES LICENCE FOR MONA LISA, 89 ST JAMES'S STREET, BRIGHTON, EAST SUSSEX, BN2 1TP UNDER THE LICENSING ACT 2003. 1445/3/2023/04505/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 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 (August 2023).

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) which paragraph 3.1.3 states:

*'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.'*

The variation seeks to amend timings on the licence and add the sale by retail of alcohol 'on' the premises to essentially make this a 'split licence'. The intention being for the premises to operate as a seated restaurant until 00:00 and then a late night takeaway using the existing hours (Monday – Thursday until 01:00, Friday – Saturday until 03:00 and Sunday until 00:00).

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 (August 2023) 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 pre consult with Sussex Police prior to the submission of this variation and were advised of Police concerns around the addition of more alcohol availability in St James's Street. They have not made any specific reference to potential cumulative impact issues or how the operator will look to mitigate any potential additional harm.

When reviewing an application, consideration is taken regarding the premises location and to establish if this area attracts problems relating to crime and disorder. Sussex Police believe St James's Street, Brighton falls within this area of concern. There are regular incidents occurring within the locality requiring police attendance. It is an area that attracts street drinking and drug related offences and while these incidents are spread throughout the day and into the early hours, they could have an impact on the type of business being considered.

Notably, the area of St James's Street has been adopted as a Problem Profile in 2023 with specific Police resources assigned to problem solving but has seen issues around crime and alcohol for a number of years. This is evidenced by the Brighton & Hove Public Health Framework for Assessing Alcohol Licensing (found at:

<https://public.tableau.com/app/profile/brightonhovepublichealthintelligence/viz/PublicHealthFrameworkforAssessingAlcoholLicensing/NavigationPage>). It also shows that 89 St James's Street lies within Queen's Park Ward, a ward that is ranked number 1 for A&E attendances with a record of alcohol (aged 15-59) and number 2 for Criminal damage and Increasing risk or higher risk drinking. Additionally, it is ranked number 3 for All injury violence, All violence against the person, Non-injury assault, Police recorded alcohol related incidents and Sexual offences. This demonstrates the higher risk to the Licensing Objective of the Prevention of Crime and Disorder in this area.

The application is consequently at risk of undermining the prevention of crime & disorder and public safety Licensing Objectives. Furthermore, Sussex Police contend that the carrying on of additional licensable activity by amending the licence to add the sale of alcohol, will add to the existing negative cumulative effect in an area already saturated with licensed premises. There are significant concerns and challenges in the St James's Street area which Sussex Police do not believe can be mitigated.

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

Yours sincerely,

REDACTED

**Insp Mark Redbourn**

**Operations (inc. Licensing) Chief Inspector**

**Brighton & Hove Division Sussex Police**

Police Breach Letter Received 02.01.2024.



Sussex Police  
Serving Sussex  
[www.sussex.police.uk](http://www.sussex.police.uk)

Brighton & Hove Licensing Unit

Police Station John Street Brighton BN2 0LA

Tel: 01273 404535 ext. REDACTED

Email: [brighton.licensing@sussex.police.uk](mailto:brighton.licensing@sussex.police.uk)

Tuesday 2<sup>nd</sup> January 2024

REDACTED Mona Lisa  
89 St James Street Brighton  
BN2 1TP

Dear REDACTED,

Licensing Act 2003 – Unauthorised licensable activities.

RE: Mona Lisa, 89 St James Street.

I attended Mona Lisa at 0015 hrs on Monday 1<sup>st</sup> January 2024. This was to check that the premises was closed as the Late Night Refreshment Licence only allows licensable activity till Midnight on a Sunday and states that the premises should close at midnight on a Sunday.

When I entered there was a male in the premises and it was confirmed that he had ordered food which was being prepared. I spoke to a male behind the counter who was preparing the food, and when I told them that the premises should be closed I was told that he knew they should close at midnight but were serving this male as he was a valued special customer.

I must inform you that non-compliance with licence permissions and conditions constitutes a breach of the Premises Licence issued under the above legislation. It is an offence under the Licensing Act 2003, S136(1) and (4) to carry on unauthorised licensable activities. The legislation states that: -

*(1) A person commits an offence if –*

*(a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or*

*(b) he knowingly allows a licensable activity to be carried on.*

*(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine, or to both.*

Selling hot food and being open outside of the licensable hours would constitute unauthorised licensable activity, and this letter is official notice that a breach of the Premises Licence has been recorded. Any further breaches may result in enforcement action being taken, including review of the premises licence.

Brighton and Hove Council Licensing have been informed of the breach and may wish to take their own enforcement action.

If there are any matters within this letter that you wish to discuss, then please do not hesitate to contact Police Licensing via the email address above.

Yours sincerely,

PC Andre Bernascone Licensing Police Officer Brighton & Hove Division

c.c Brighton & Hove City Council Licensing Team.

REP B

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

Date: 20 December 2023  
Our Ref: 2023/02825/LICPRM/EH  
Phone: 01273 292494  
e-mail: REDACTED

Dear Emily Fountain

**EF CON ENDS 28.12.2023 VALID PCD, CIZ (B)**

**Licensing Act 2003**

**Representation to the application for a Variation of a Premises Licence -  
2023/04505/LAPREV Mona Lisa, 89 St James's Street, Brighton BN2 1TP**

I write to make a representation on behalf of the Council's Licensing Team, in their capacity as a responsible authority, in relation to the above application to vary a Premises Licence submitted by 89 St James's Street, Brighton.

This representation is made as the Licensing Team have concerns that the application could have a negative impact on the licensing objective of prevention of crime and disorder. I also refer to the Special Policy on Cumulative Impact (SPCI) contained within the Council's Statement of Licensing Policy (SoLP).

This premises falls within the Licensing Authority's Cumulative Impact Area (CIZ), which was adopted to give greater power to control the number of licensed premises within the city's centre. The SPCI was introduced 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 the SPCI is that applications for variations of premises licences, which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. The applicant can rebut this presumption of refusal if they can show that their variation application will have no negative cumulative impact on licensing objectives, including prevention of crime and disorder and public nuisance.

Guidance issued under S182 of the Licensing Act 2003 (December 2023) 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, Cumulative Impact Zone (CIZ)), 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.

During Pride 2022, the premises were open and carrying out unauthorised licensable activities as they had not transferred the premises licence. The premises licence was also suspended due to the annual fees not being paid. The applicant was aware of this; however, they continued to operate without a valid premises licence.

Also, since taking over the premises, the Environmental Protection team have received noise complaints, however, these had not been substantiated.

The applicant did pre-consult with the Licensing Authority prior to submitting this application.

We advised that an application for a Restaurant, would possibly fall within Policy. However, Late Night Refreshment with the current terminal hour would not. As St James's Street already has a very high saturation of licensed venues, an application of this nature, would be against our Statement of Licensing Policy. And as such, the Licensing Team would not be able to support such an application.

On looking at the application form, particularly section 16 (licensing objectives), the applicant has not addressed the premises location within the CIZ, has not offered any mitigation or explanation regarding the potential impact might have and has not demonstrated how the application is an exception to our policy.

The Licensing Authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its SPCI in the light of the individual circumstances of the case.

The Council's Statement of Licensing Policy also 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.

In regard to the Matrix policy, I can again not see any offered exceptional circumstances for departing from the Matrix policy, where it clearly indicates that 'late night refreshment' in the CIZ should not be granted. The Licensing Team contend that the Matrix policy relates to both new and variation applications, so this also means that later hours would not be granted to existing 'late night refreshment' licence. Again, the Matrix policy can be departed from where exceptional circumstances are demonstrated, but the applicant has failed to address this.

The Licensing Team make this representation to uphold our Statement of Licensing Policy. Adding alcohol to the existing premises licence is likely to add additional burdens and problems to the already challenging area and I do not believe that the applicant has demonstrated that there are exceptional circumstances to justify departing from the Policy. I therefore ask that this application is refused.

Yours sincerely  
**REDACTED**

Donna Lynsdale  
Licensing Officer  
Licensing Team

**Licensing Team Copy of email dated 5 January 2024 detailing breaches of premises licence.**

**From:** Donna Lynsdale

**Sent:** Friday, January 5, 2024 12:08 PM

**To:** REDACTED

**Cc:** REDACTED Brighton.Licensing@sussex.police.uk

**Subject:** The Mona Lisa, 89 St James's Street, Brighton, BN2 1TP - 2023/02825/LICPRM/EH

**Importance:** High

Dear REDACTED

**Licensing Act 2003**

**Mona Lisa, 89 St James's Street, Brighton BN2 1TP**

**Premises Licence Number: 1445/3/2022/03786/LAPRET**

I am writing to you in your capacity as the Premises Licence Holder (PLH) for the above premises.

I have been informed by Sussex Police that a visit was carried out to your premises on Monday, 1 January 2024 at 00:15.

At time of this visit, you were open and trading and carrying out licensable activities past your permitted terminal hour.

Your premises licence states:

**Times the licence authorises the carrying out of licensable activities:**

**Late Night Refreshment**

Monday - Thursday	23:00 - 01:00
Friday - Saturday	23:00 - 03:00
Sunday	23:00 - 00:00

I remind you that non-compliance with conditions constitutes a breach of the Premises Licence issued under the above legislation. Please ensure that all conditions on the licence are adhered to. It is an offence under the Licensing Act 2003, S136(1) and (4) to carry on unauthorised licensable activities. The legislation states that:-

(1) A Person commits an offence if –

- (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or
  - (b) he knowingly allows a licensable activity to be carried on.
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to an unlimited fine, or to both.

Please be aware that any enforcement action is taken in line with our Licensing Enforcement Policy. You are also reminded that at any stage, following the grant of a premises licence, a responsible authority, such as the Police, Environmental Health, or an interested party such as a resident living in the vicinity of the premises, may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

In light of the above information, I am issuing you with a **Warning** in accordance with our Licensing Enforcement Policy.

Police Licensing have been copied into this email.

Please acknowledge receipt of this email. When responding please reply to all.

Regards

**Donna Lynsdale** | Fair Trading Officer & Licensing Officer (Trading Standards & Licensing),  
Safer Communities  
Brighton & Hove City Council, 2<sup>nd</sup> Floor, Barts House, Barts Square, BN1 1JP  
T REDACTED | [REDACTED](#)

**Our customer promise to you**

We will make it clear how you can contact or access our services | We will understand and get things done | We will be clear and treat you with respect