

Appendix C

REP A

From: REDACTED

Sent: Wednesday, June 19, 2024 4:04 PM

To: EHL Licensing <ehl.licensing@brighton-hove.gov.uk>

Subject: 90 st James st

EF CON ENDS 26.06.2024 VALID PCD and PPN (A)

Hi

I'd like to object to the granting of an alcohol license to this property. I own a flat on st James st - REDACTED. There are extreme issues with drug and alcohol use on the street. This contributes to a significant amount of crime and anti social behavior. To grant this license will simple add to the problem not resolve it in any fashion. It would be tantamount to placing profit before the safety of local residents.

There are already licensed pubs opposite, up the street at wolf fox and the oak pub, not to mention the numerous pubs and clubs on the street.

Kind Regards

REDACTED

REP B – Licensing Team

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

Date: 24 June 2024
Our 2024/01338/LICREP/EH
Ref: 01273 292494
Phone:
e-mail: REDACTED

EF CON ENDS 26.06.2024 VALID PCD, PPN and CIZ (B)

Dear Emily Fountain

Licensing Act 2003

**Representation regarding the application for a Variation of Premises Licence
Malo Brighton LTD, 90 St James's Street, Brighton BN2 1TP – 2024/01762/LAPREN**

I refer to the application made by Malo Brighton LTD, for a new Premises Licence for the provision of Supply of Alcohol 'on and off' the premises at Malo, 90 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 objectives of Prevention of Crime and Disorder and the Prevention of Public Nuisance. 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 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.

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 'off-sales' in the CIZ should not be granted. Again, the Matrix policy can be departed from where exceptional circumstances are demonstrated, but the applicant has failed to address this.

The Licensing Team therefore makes this representation to uphold the Council's Statement of Licensing Policy and we wish to bring the application to the attention of the panel so that they can consider the application in its entirety and decide whether it constitutes exceptional circumstances to depart from the policy.

Yours sincerely
REDACTED
Donna Lynsdale
Licensing Officer
Licensing Team

REP B – Police Licensing

Police Station
John Street
Brighton
BN2 0LA
Tel: 01273 014167
Email: brighton.licensing@sussex.police.uk

25th June 2024

EF CON ENDS 26.06.2024 VALID PCD, PS and

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 NEW PREMISES LICENCE FOR MALO, 90 ST JAMES'S STREET, BRIGHTON, EAST SUSSEX, BN2 1TP UNDER THE LICENSING ACT 2003. 1445/3/2024/01762/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, protection of children from harm and public safety. We also make reference to the Brighton & Hove City Council (BHCC) Statement of Licensing Policy (published January 2021) and the Revised Guidance issued under section 182 of the Licensing Act 2003 (December 2023).

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: 12:00 – 21:00 (amended from 09:00 – 21:00 in the original application)

Opening hours

Everyday: 07:00 – 21:00

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.'

The licensing decision matrix on page 18 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' or 'café' are a 'No' in the St James's Street area (CIZ).

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 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 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. This is especially disappointing as Sussex Police have worked with the applicant before on their application for Malo in Duke Street. Communication has been made during the consultation period of this application with the applicant offering to remove the 'off' sales element of the licensable activity. However, nothing further has been heard from the applicant since a Police Licensing email sent on 18/06/2024 so no further communication can be considered.

Sussex Police do not believe the conditions offered under Section 18 of the application 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 additional measures restricting the sale of alcohol. This could have included making alcohol sales ancillary to food e.g. a restaurant or café set up, limiting the type of alcohol to Argentinian based products (as per their other location on Duke Street) or anything else that may offer Police reassurance on the type of venue being applied for. 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. This is again disappointing as conditions were agreed for their Duke Street site which could have been offered/amended for their new site to show thought had been given to potential crime & disorder, protection of children from harm and public safety issues.

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 was 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 shows that 90 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.

Sussex Police do not believe this application addresses the concerns raised and therefore is at risk of undermining the prevention of crime & disorder, protection of children from harm and public safety Licensing Objectives. Sussex Police additionally contend that the carrying on of additional licensable activity, in particular sales of alcohol 'off' the premises, 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 this application in light of the Police concerns, local issues and Local Authority special policy. Appendix 1 provides some potential conditions that could be considered were the Panel minded to grant this application in full or part.

Yours sincerely,

REDACTED
Insp Dan Eagle

Operations (inc.
Licensing) Inspector
Brighton & Hove Division
Sussex Police

REP B – Police Licensing Appendix 1

Proposed Conditions for Malo, 90 St James's Street

Conditions in PURPLE pertain to an outside area should the premises have a pavement table & chairs licence – this has not been answered during our discussions with the applicant so may not be applicable.

General:

1. The sale of intoxicating liquor and other beverages shall be solely (by waiter/waitress service) for consumption by persons seated at tables. There will be no vertical drinking at any time.
2. Substantial food shall be available at all times that alcohol is offered for sale on these premises.
3. The type of alcohol sold under this licence for consumption 'off' will be limited to Argentinian wines, sparkling wines, beers and lagers. These will only be as part of a food order.
4. No beer, lager, cider or perry with an ABV over 6% or above shall be sold at the premises save that this shall not apply to premium beer, lager, cider or perry with an ABV over 6% or above such as craft or speciality brands or brands produced by a micro-brewery, or brands produced to commemorate a national or local event.
5. Authorised staff employed by Sussex Police shall have free access to all parts of the licensed premises at all times licensable activity is taking place or when open to members of the public, for the purpose of inspection to ensure compliance with the terms and conditions of the premises licence and to ensure the promotion of the licensing objectives.
6. *Any outside area as shown on the plans will be subject to approval for use by the lease holder or relevant pavement and chairs licence. Should the termination time of use on any outside area licence be early than that stated within the permitted times on this*

licence, the earlier times will apply.

Additional conditions as stated in original application or agreed with another Agency
For the Prevention of Crime and Disorder:

7. Subject to GDPR guidance and legislation:

(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 externally to cover the entrances/exits to the premises and the fridges/shelves where alcohol is stored. 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) 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 e.g. USB) 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. This can be via email - brighton.licensing@sussex.police.uk. Repair records /invoices shall be kept on site for at least 12 months and be readily available to be viewed by all authorised person upon request.

(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. An incident log shall be kept at the premises and must be completed within 24 hours of the incident. It can be in paper or electronic form and will record the following:

- a) all crimes reported to the venue
- b) any refusals made of alcohol service e.g. underage, intoxication
- c) all ejections of patrons
- d) any complaints received concerning crime and disorder
- e) any incidents of disorder
- f) all seizures of drugs or offensive weapons
- g) any visit by a relevant authority or emergency service.

9. The incident log will: a) be inspected and signed off by the DPS (or a person with delegated authority) at least once a fortnight. a) 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 or as listed in condition 8 above.
b) be used to give feedback to staff to ensure that the log is used on each occasion that a refusal, ejection or incident occurs at the premises and to identify any patterns or trends.
c) be kept for a minimum of twenty four (24) months.

Additional conditions as stated in original application or agreed with another Agency
For Public Safety:

10. Unless earlier as covered by condition 6, the outside trading area to the front of the premises will be fully cleared of all moveable street furniture and closed to customers at 21:00pm.

11. The outside areas shall be monitored and regularly cleared of glasses and bottles.

Additional conditions as stated in original application or agreed with another Agency
For the Prevention of Public Nuisance:

Conditions as stated in original application or agreed with Environmental Protection

For The Protection of Children from Harm:

12.

(a) The Premises Licence Holder / Management shall ensure that all staff members engaged or to be engaged in selling, serving or delivering alcohol shall receive induction training. If this training is to be conducted in electronic form, it will at a minimum also include a face-to-face discussion session. This training will take place prior to the selling, serving or delivering of such products and will include:

*The lawful selling of age restricted products – including but not limited to, the requirement of the staff member conducting the transaction to ensure they carry out Challenge 25 checks regardless of any other staff member checks that may already have taken place

*Identifying if a person may be intoxicated and refusal of sale

*Vulnerability initiatives and how to respond to potential drink spiking

(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. These records will be retained for a minimum of twenty four (24) months.

13. The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol 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.

14. Signage advertising the 'Challenge 25' policy will be displayed in prominent locations in the premises.

15. A list of staff members who are authorised to sell alcohol on the premises shall be kept. This shall be endorsed by the DPS with the date such authorisation commences.

Delivery Service

16. All forms of advertising and promotional literature detailing online sales (including internet sites, social media and physical flyers/leaflets) will clearly and predominantly state that the company operates a Challenge 25 policy and the forms of approved ID that will be accepted. Customers will be made aware that age verification checks e.g. Challenge 25 will take place before alcohol is handed to the recipient and that failure to show the required form of ID will result in non-delivery of the alcohol.

17. Alcohol for delivery off the premises will only be as part of a food order with a minimum food order of £10.

18. Alcohol for delivery off the premises will be in sealed containers only and restricted to Argentinian wines and beers/lagers.

19. All deliveries will be made by a reputable/certified courier company who has a relevant age verification process in place, the premises Licence holder, or a direct employee of the Premises Licence holder.

20. Alcohol will only be delivered to residential and business addresses. Alcohol will not be delivered to customers at a park, in an open space, the beach, a bus stop etc.

21. When an order is taken for delivery to a customer the following information will be recorded in either electronic or paper form:

- a) A list of individual items delivered
- b) The delivery address;
- c) The method of payment;
- d) The name of the person ordering and receiving alcohol;
- e) The date and time of delivery;
- f) If proof of age was asked for, confirmation of the type of proof of age document presented and accepted;
- g) Any refusals made for alcohol service e.g. underage suspected so no delivery
- h) The name of the third-party company, employee or representative of the premises who made the delivery.

22.

(a) A record of sales and deliveries (as per condition 20) will be kept and made available for inspection by the Police, Licensing Authority or officers from the Trading Standards team for 12 months from the date of delivery or refusal of alcohol.

(b) The Designated Premises Supervisor shall frequently check the record (minimum every 4 weeks) to ensure all staff are using it and shall sign and date it immediately after

the latest entry as a record of doing so.

