

Appendix C – Representation from Responsible Authorities

Environmental Protection

Head Of Licensing
Brighton and Hove City Council
(via email)

Date: 31st October 2024
Our Ref: 2024/02566/EPLIC/EH
Contact:
Phone: **REDACTED**
Fax:
Email: **REDACTED**

EF CON ENDS 13.11.2024 VALID PPN

Dear Sir

Representation for a Licensing Review for Whitecliffs Café, Marine Drive, Saltdean, BN2 8SQ
Licensing Act 2003
Complaint Reference : 2024/02566

I refer to a licensing review hearing that has been called regarding the premises known as Whitecliffs Café, Marine Drive, Saltdean, BN2 8SQ.

This is a representation on behalf of the Environmental Protection team regarding the premises known as Whitecliffs Cafe on the grounds of “**prevention of public nuisance**” one of the 4 licensing objectives within the Licensing Act 2003.

Since October 2023 there have been 3 noise complaints submitted to the Environmental Protection team, most of these via the local ward Councillor. In total there were 4 individual complainants. All of the complainants have advised me that the event's that appear to cause the problems are private events and happen about once a month. All the complaints are about noise from loud/ bass music.

The first complaint was on 9th October 2023, a letter was sent to the designated premises supervisor and a noise diary to the complainant, this was never returned so the case was closed. A colleague from licensing and I did also try to arrange a visit to the café but we were unable to do this.

I also carried out an evening visit on 28th October as I knew an event was taking place but there was no noise audible at the time of the visit.

The 2nd complaint was received on 11th June 2024, there were 2 complainants both were sent a noise diary but neither of these were returned. A letter was also sent to the café, and a response from the DPS stated that they were carrying out regular noise checks.

The 3rd complaint was received on 23rd September 2024, again a letter was sent to the café and a noise diary to the complainant, to date I have not had this back. Arrangements were made to visit the café on 3rd October 2024 and I went along with a colleague from licensing and spoke to the manager and partner of the DPS. They again re-iterated that they carry out regular monitoring around the café and on the main top road.

Should the licence be amended then the Environmental Protection team would like to propose additional conditions to be attached to a licence under "**prevention of public nuisance**" I attach these conditions as an appendix A to this letter.

Please do not hesitate to contact me should you wish to discuss the matter further.

Yours sincerely

M L Hayward
Environmental Protection Officer

Environmental Protection Appendix A – Whitecliffs Café Proposed additional conditions

Prevention of Public Nuisance

1. During Events regular monitoring of noise levels at the nearest noise sensitive locations shall take place and volume/bass reduced so as to avoid public nuisance. A record shall be kept, including date, time, location and action taken. This record shall be made available for inspection by council officers on request.
2. All windows and door shall be kept closed after 23-00hrs.and during entertainment except for access and egress.

I would also like to propose that the existing condition 2 on the current licence which reads,

Outside speakers when in use will be operated at a level so that they are only heard by customers at the outside tables and chairs and not the general public using the beach.

To

Outside speakers when in use will be operated at a background level so that music can only be heard by customers seated on the outside tables and chairs and not the general public using the beach. External speakers should be turned off at 21-00hrs.

To keep the remaining conditions under Prevention of Public Nuisance

Licensing Authority

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

Date: 08 November 2024
Our Ref: 2024/02615/LICREP/EH
Phone: REDACTED
Email: REDACTED

EF CON ENDS 13.11.2024 VALID PPN

Dear Emily Fountain

Licensing Act 2003

Representation to the Review of the Premises Licence

Whitecliffs Café, Marine Drive, Saltdean, Brighton, BN2 8SQ ("the premises")

I am making this representation on behalf of the Licensing Team on the grounds of the Prevention of Public Nuisance under the Licensing Act 2003, to provide a brief statement of the Licensing Team's involvement with the premises and those parties who have submitted the review application.

JULY 2023

Complaint – Councillor ("Cllr") regarding whether the premises licence had expired as they had received several complaints about noise from live music and DJs so if the licence is being renewed, they would like it to be clarified where and when the premises can play music. In particular, what is an acceptable radius for music to be heard as residents have complained about late night music disturbing their sleep and music penetrating out onto the beach.

Response to Cllr from Licensing – Confirmed to the Cllr that the licence for the premises was still in force and was only showing as expired on the public register due to the annual licensing fee being outstanding. Outlined the conditions on the premises licence in relation to the licensing objective of the prevention of public nuisance. Gave details for the Environmental Protection Team to be contacted if issues with noise continued.

Enquiry to Premises from Licensing - E-mailed the Designated Premises Supervisor (“DPS”) at the premises to inform them that a complaint had been received from a Cllr who had received complaints from local residents that they are concerned regarding noise at the premises, reminded them of the conditions that attach to the premises licence in particular but not exclusively under the Licensing objective of the prevention of public nuisance.

SEPTEMBER 2023

Complaint - Cllr complaint received as they had received complaints all summer about loud music at the premises with the past weekend being particularly bad.

Response to Cllr from Licensing - Cllr informed that no direct complaints had been received to colleagues in the Environmental Protection Team and reminded them of the Team’s contact details if residents wished to contact them direct.

Complaint – Cllr reported alleged licensing breaches by the premises on Thursday 14 September. DJ playing on the east terrace from 6pm. Music blaring across the beach. Alleged breach of licence that says music should not be heard on the beach i.e. outside the footprint of the premises. Friday 15 September - Private party. DJ on west terrace. Music could be heard across Saltdean until 1am.

Complaint - Local Resident kept awake at weekends due to music, mainly a drumbeat, emanating from the premises. There have recently been some weekday evenings where they have suffered excessive noise. Noticed that there are now adverts on the internet listing the premises for Club nights.

Enquiry to Premises from Licensing - E-mailed DPS at the premises to inform them that further complaints from a Cllr and local residents had been received regarding noise at the premises, in particular with an event that took place on Friday 15 September.

Asked to confirm the following -

- What arrangements in place to control noise at the premises to ensure compliance with the conditions on the premises licence under the prevention of public nuisance and that you are not causing a statutory nuisance that our Environmental Protection Team would be duty bound under the Environmental Protection Act 1990 to investigate?

Response from Premises to Licensing – The event of the 15th of September was a wedding where they provided their own DJ and equipment. Unfortunately, the DJs concerned became increasingly uncooperative with regards to the management of the sound levels despite being repeatedly requested to lower the levels through the night. In that instance and given the individuals attitude, we made the decision that the safest option was to see the night through rather than risk the implied threats of one or

two of the DJs of disorder. They have subsequently requested the details of the individuals in order that they will not be playing at the premises again.

They have now decided that duty managers carry out a number of sound checks using a dB level APP which is saved on file and marked as to location and time of each reading. This provides a live recording of sound and a detailed breakdown of levels. They intend to use this for all such events to aid compliance.

Substantial food is always available. Including hotpots, toasted ciabattas, chips etc.

OCTOBER 2023

Complaint – Cllr that there is an event being advertised at the premises this Friday where a mandatory condition of the licence will be broken.

Enquiry to Premises from Licensing - Licensing has been contacted this week by a Cllr regarding an event that is due to take place this Friday (6 October) "Scallywag" party which has previously been held at the premises and resulted in noise complaints being made to them by local residents.

Response from Premises to Licensing – That they would be complying with the conditions during the event.

FEBRUARY 2024

Complaint – Cllr “fielded the first complaints of the year about music coming from the premises after midnight. The premises hosted two late night music events - to 2am and 1.30am”

MAY 2024

Enquiry - Cllr forwarded an advert for outdoor DJ nights at the premises. These were the nights that they received most complaints about as music blared across the beaches. Please could Licensing write to the premises and remind them that their licence says music must not be heard outside their terrace area.

Response to Premises from Licensing - Premises/DPS were e-mailed to remind them of their obligations under the conditions of the premises licence and the Licensing objectives under the Licensing Act 2003.

JUNE 2024

Complaint – Cllr that on Sat 8th June the premises had “another 12-hour private party with loud music until 2am”

Response from Premises to Licensing – On the day in question we were operating a private hire event. We did meet with one neighbour on the evening who enquired as to the duration of the event and liaised immediately with the hirers' sound technician who both reduced levels and adjusted equipment to address any further concerns.

Having checked, we are unable to see any record of incoming telephone calls on that night in relation to any complaint.

During this event we monitored levels both inside and outside of the venue including up to the A259 road and we have the readings in both static & with still &/or video form with data overlaid.

AUGUST 2024

Enquiry – Local resident regarding the premises selling pints of beer for takeaway to beach users.

Response from Licensing to Local Resident – Responded that The Business and Planning Act 2020 which was introduced by the government during Covid provides automatic extensions to the terms of on-sales alcohol licences to allow for off-sales (save for certain exceptions). This measure makes it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption 'off' the premises (until 23:00) without making a separate application. The Business and Planning Act has been extended until 31 March 2025.

SEPTEMBER/OCTOBER 2024

Complaint – Received via Cllr on behalf of a local resident and a further local resident on their own behalf who had been subjected to an extremely loud drumming sound emanating from the premises last night (Sat 21st September). This noise continued until around 2am.

Response from Licensing – A visit subsequently took place at the premises on 3rd October 2024 with a colleague from the Environmental Protection Team to run through the conditions on the premises licence with the manager and discuss the complaints that had been raised.

Should the Panel feel it appropriate then the Licensing Team would like to propose additional conditions to be attached to the premises licence. I attach these conditions as an appendix A to this letter.

Please do not hesitate to contact me should you wish to discuss the matter further.

Yours sincerely

Corinne Hardcastle
Licensing Officer
Licensing Team

Licensing Authority APPENDIX A - PROPOSED CONDITIONS

1. 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 all public areas, including the entrances/exits to the premises as well as any outside space. 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 Police e.g. USB) or provide footage via an online link as initiated by Police, without difficulty or delay and without charge.

(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.

(h) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by 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.

2. SIA licensed door supervisors shall be employed on any other occasions when a requirement is identified by the licence holder's written risk assessment or requested by Sussex Police in writing at least 48 hours in advance. The written risk assessment will be reviewed at least once every calendar year. The written risk assessment will take into account information or guidance offered by the police, and also taking into account busy periods such as Bank Holidays, Season Variations and other City Events e.g. Football, Pride, Music Events. The written risk assessment will be available on the premises for inspection by police and authorised officers of the Licensing Authority.
3. (a) An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a month.

(b) The log book should 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.

(c) Any refusals made for alcohol service e.g. underage, will also be recorded (either in electronic or written form) and feedback given to staff as relevant. The log will be kept for a minimum of twenty four (24) months.
4. 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, biometric residence permit cards 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.
5. Signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises.

6. (a) The Premises Licence Holder / Management shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products and will include:
- The lawful selling of age restricted products:
Including but not limited to, the requirement for the staff member conducting the transaction to ensure they do Challenge 25 checks regardless of any other staff member / door staff checks that may already have taken place.
 - Refusing the sale of alcohol to a person who is drunk
- (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.