

Appendix D

REP A



Brighton & Hove Licensing Unit

Police Station
John Street
Brighton
BN2 0LA

Email: brighton.licensing@sussex.police.uk

EG CON ENDS: 20.11.2024 VALID PCD & PPN (A)

15th November 2024

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

Dear Emma Grant,

RE: APPLICATION FOR A VARIATION OF THE PREMISES LICENCE FOR DALTONS, MADERIA DRIVE, BRIGHTON, BN2 1EN UNDER THE LICENSING ACT 2003.

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 nuisance. We also make reference to the Brighton & Hove City Council (BHCC) Statement of Licensing Policy.

This is a proposed variation of the premises 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 Area (CIZ) (as defined in the BHCC Statement of Licensing Policy).

Paragraph 3.1.2 of the Brighton and Hove City Council 2021 Statement of Licensing Policy 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.”

In accordance with the Statement of licensing policy this application would be a “NO”

Sussex Police had not been pre consulted on before this application was submitted and have noted that a lot of changes to this premises licence have been requested.

This letter will address each change on its own merit.

- Extend their licensable activities until 03:00 on Fridays and Saturday - Increase Opening hours to Sunday – Thursday 09:00 – 00:45 and Friday – Saturday 09:00 – 03:30. (Not set guidance on times for NYE)

Sussex Police have noted that the operating schedule on this application form includes all the conditions under Annex 2 of the premises licence. The application form has failed to include the Conditions under Annex 3 which specify this premises will operate as a theatre led arts Venue. Therefore Sussex Police fear this will allow this premises to operate as an additional Nightclub on the beach, thus diminishing the venues core business as a theater lead venue and counter to the Councils Statement of Licensing Policy 2021 in relation to being favorable to theatre lead venues.

Annex 3 conditions currently on the premises licence include:-

1. The premises will only operate as a theatre led arts venue with at least an average of 14 theatre activities to be held per seven days the premises is open to members of the public which shall include public performances, rehearsal and group work. A schedule of such activities shall be made available to the licensing authority and the police on request.
2. There shall be no vertical drinking in the premises save for during a ticketed public event or performance where standing is part of the artistic environment of the show.
3. There shall be no DJ led performances.
4. There shall be no vertical drinking in the outside area of the premises. Poly carbonate drinking vessels will be used in all outdoor areas.

In Addition to this, Sussex Police would expect to see additional safety measures offered if this premises wish to trade until 3am at the weekend such as ID Scanners, with further information of how the premises will be operating in these additional hours.

- To add New Years Eve as a seasonal extra to extend their licence.

Sussex Police struggle to comment on this as there was no guidance on timings requested with what measures will be put into place during a busy event in the city.

- Recorded Music to be Both Indoors and Outdoors.

Sussex Police raise this as a concern as again no further measures have been offered on how Music until 03:00 on Friday and Saturday is going to be managed to ensure no Public

Nuisance is experienced or how the beach will be managed if members of the public begin to congregate around the outside of the premises.

The beach is an area of concern for Sussex Police with regards to Vulnerability.

- Too add Late Night refreshment to match all licensable activity times.

Sussex Police have minimal concern regarding this aspect of the application. However, we question whether the sale of Late-Night refreshment would be within the premises only as again concerns of vulnerability if food being taken away.

- Alcohol off sales until Midnight.

Sussex Police would like to put this before a licensing panel and ask for this aspect of the application to be refused as there are no further conditions which have been offered and Sussex Police can propose which will mitigate the risks of alcohol being taken onto the beach or into the city.

Sussex Police is aware of the RLSS UK Don't drink and drown campaign and their statistics show that 46% of accidental drownings of those aged between 18-25 involve alcohol and/or drugs in the last 6 years.

Beach Patrol is an organization that exists to aid the safety of the nighttime economy.

The night-time economy within Brighton & Hove can at times be challenging for all the emergency services. Within Brighton & Hove we are unique in that we have a high number of licensed venues all of which are in very close proximity to each other and is inclusive of licensed premises around the Beach. The beach is a particular area of vulnerability, not only in relation to the risk of drowning, but the environment of the beach which creates 'hidden' areas in darkness which perpetrators of crime exploit, including sexual offending.

Due to the risks associated with intoxication, the city has several initiatives that support Police and other emergency services in safeguarding the public. These include Beach Patrol as mentioned and Safe Space. More recently an initiative for Night Safety Marshalls who are SIA registered security staff with numerous training sessions completed to be able to deal with the challenges they might come across patrolling on foot within the night-time economy at the weekends between 8pm and 4am with the focus on vulnerability. Many of these organisations and persons involved are volunteers and operate in their spare time. The fact these safeguarding services are needed and exist goes a long way to prove the negative impact alcohol has within the night-time economy.

With high numbers of persons descending on the city especially at the weekends Sussex Police operate a standalone night-time operation each weekend and at other various peak times throughout the year. This involves dedicated Police resources patrolling the main night-time economy area, focusing on vulnerability, while the remainder of response resources service emergency call demand in the city. Having a visible police presence in the area goes some way to assist in reducing vulnerability and criminal incidents occurring, but unfortunately does not stop them in their entirety. Most incidents dealt with have an element of alcohol and drugs linked to them. This is a mix of persons becoming drunk and disorderly, violent and a high number of incidents involve persons who have become a

victim of crime such as sexual assaults and robberies due to their own vulnerability after consuming alcohol. Staff at venues and emergency services are also far too often at the end of a drunk person's aggression.

Recent incident & crime states indicate that during the period of 16th November 2023 and 12th November 2024 there were 207 incidents linked to Maderia Drive and surrounding close by surrounding areas. The majority of these incidents were recorded as violent crime and thefts.

Although we are unable to support this application and ask for a licensing panel to scrutinise this application, if the Licensing Panel are minded to grant this application at the hearing, Sussex Police have attached some conditions and ask that these conditions are added to the Premises Licence. The conditions being offered unfortunately do not mitigate fully the risks should this premises trade until 03:00am on a Friday and Saturday with LNR and Off sales of alcohol. They go some way to reduce incidents occurring within the premises itself but there are no conditions that can address the risks once customers have departed. The risks of them becoming a victim of crime or them partaking in criminal activity is one that will need to be dealt with by the emergency services. Or if public nuisance issues occur, then this will be for the environmental officers to pick up.

Therefore, Sussex Police invite the Licensing Authority to seriously consider refusing this application however we reserve the right to submit conditions to the licensing panel.

Yours sincerely,

REDACTED

Insp Daniel Eagle
Ops Planning and Events (inc. Licensing) Inspector
Brighton & Hove Division
Sussex Police

REP A – Police Proposed Conditions

Proposed Conditions for Daltons.

Conditions under annex 3 to remain:-

1. The premises will only operate as a theatre led arts venue with at least an average of 14 theatre activities to be held per seven days the premises is open to members of the public which shall include public performances, rehearsal and group work. A schedule of such activities shall be made available to the licensing authority and the police on request.
2. There shall be no vertical drinking in the premises save for during a ticketed public event or performance where standing is part of the artistic environment of the show.
3. There shall be no DJ led performances.
4. There shall be no vertical drinking in the outside area of the premises. Poly carbonate drinking vessels will be used in all outdoor areas.
5.
 - (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 entrance to the premises. 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) Subject to GDPR guidance and legislation, 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) 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.

(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.

6. The licence holder must operate in accordance with a Search Policy drawn up in consultation with Sussex Police. As part of this policy the premises will operate random searching of customers as a condition of entry.

ID scanner Condition

1. The premises shall install a recognised electronic identification scanning system for customers entering the premises. The system shall be operated at all times door staff are on duty and all persons entering the premises will be scanned. The system should have the ability to 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 Commissioners good practice guidance for ID scanning in clubs and bars.
2. The premises can trade past Midnight when Live music is taking place, this does not include DJ's .
3. Late Night Refreshment will only be available to existing customers in the premises and only for consumption inside the premises or within the terrace area.



Safer Communities – Licensing Team
Brighton & Hove City Council
2nd Floor Bartholomew House
Bartholomew Square
Brighton
BN1 1JP

REP B

EG CON ENDS: 20.11.2024 VALID PCD, PPN & CIZ (B)

Mrs Emma Grant
Licensing Authority
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BN1 1JP

Date: 18 November 2024
Our Ref: 2024/02640/LICREP/EH
Phone: 01273 292143
e-mail: emily.fountain@brighton-hove.gov.uk

Dear Mrs Emma Grant

**Licensing Act 2003 – Licensing Authority representation against the variation application for a Premises Licence reference: 2024/04389/LAPREV
Daltons Bastion Downstairs - Madeira Drive, Brighton, BN2 1EN**

I refer to the application made by Madeira Leisure Limited for a variation to the Premises Licence for **Daltons Bastion Downstairs - Madeira Drive, Brighton, BN2 1EN**

The application seeks to increase the times of the following licensable activities: Live and recorded music and alcohol on the premises on Friday and Saturday evenings from 00.30 to 03.00. New Years Eve is also on the application form, but no times are specified.

To add off sales of alcohol everyday until 00.00.

To add late night refreshment (LNR) Sunday to Thursday 09.00 until 00.30 and Friday and Saturday 09.00 to 03.00

To remove the following conditions from Annex 3:

1. The premises will only operate as a theatre led arts venue with at least an average of 14 theatre activities to be held per seven days the premises is

open to members of the public which shall include public performances, rehearsal and group work. A schedule of such activities shall be made available to the licensing authority and the police on request.

3. There shall be no DJ led performances.

I have concerns about this application and make a representation on the grounds of the Prevention of Crime and Disorder and Prevention of Public Nuisance and that this application falls within our Cumulative Impact Area (CIA).

The licensing authority, after careful consideration, 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 authority has published a Cumulative Impact Assessment which can be found at Appendix E of our Statement of Licensing policy. Statement of Licensing Policy 2021 (brighton-hove.gov.uk)

The policy states new applications and variations to existing licences within the Cumulative Impact Area should normally be refused following relevant representations. This presumption of refusal can be rebutted by the applicant if they can show that their application will have no negative cumulative impact on licensing objectives including the Prevention of Crime and Disorder and Public Nuisance. The Licensing Authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy in the light of the individual circumstances of the case.

The Council's Statement of Licensing Policy (SoLP) 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. This application seeks an increase of alcohol times, to add off sales of alcohol and late night refreshment. The matrix says 'No' to Off Licences, Late Night Takeaways, Pubs and Nightclubs in the CIA. Each application is still considered on its individual merit and there is discretion to depart from the Matrix approach policy in exceptional circumstances.

Guidance issued under S182 of the Licensing Act 2003 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, a cumulative impact policy), 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.

There is no mention of the Cumulative Impact Area on the application form. Furthermore the application whilst seeking an increase to licensable activities has not offered any additional conditions to mitigate the increased risks. In fact it seeks to remove some existing conditions that were put on the licence by a licensing panel in November 2022 (albeit under a different operator) that were considered necessary to promote the licensing objectives and emphasise the non-alcohol led character of an operation within the CIA. The applicant has not demonstrated exceptional circumstances to depart from our policy or how they will not add to the existing cumulative impact of the area.

I am making this representation as a guardian of our policy this application is contrary to the SoLP and is in the Cumulative Impact Area neither of which have been referenced to in the application and ask the licensing panel to determine the outcome.

Yours sincerely

REDACTED

Emily Fountain
Licensing Officer
Licensing Team

Environmental Protection Agreed Conditions

From: Daltons Brighton REDACTED

Sent: 18 November 2024 17:36

To: Matsekana Tsekana REDACTED

Subject: Re: Licensing Application 2024/02617/EPLIC/EH

Good Evening Matsekana,

Thankyou for your email and very valid points. We are more than happy to adjust our application to the following with your recommendations.

- Outside background recorded music will be kept at a low level between the hours of 20:00 until 00:00. After this all amplified music will be turned off at 00:00 and kept off for the duration of the evening.
- The outside low level fenced off terrace area will have a maximum of 100 patrons at one given time (Terrace is approx 250 cap) between the hours of 00:00-03:00. This area will be managed by SIA security staff by using electronic clickers and subsequently recorded on the hour (Currently already in place as standard for inside events) at all times. The area will be fully cleared and patrolled for issues at the close of business before SIA are stood down.
- The outside areas of the venue will be patrolled regularly by SIA staff and also venue staff throughout the night (We carry this out as part of our current

routine). Regular sound readings will be taken by our qualified in house sound techs and recorded (We currently also carry this out as part of our current routine)

On Mon, 18 Nov 2024 at 14:43, Matsekana Tsekana REDACTED wrote:

Dear REDACTED,

I hope you're doing well.

I've been asked to comment on your licensing application on behalf on Environmental Protection and as I went through the details, I noticed a couple of points I wanted to discuss with you. I understand that your application includes playing music **outdoors until 3am on Friday and Saturday nights**, but I'd like to suggest a couple of adjustments for the sake of preventing public nuisance, and supporting both your business and the wider community.

1. **Stopping outdoor music at 00:30** : This would align your operations with other nearby premises and help reduce the risk of noise disturbances to the surrounding area particularly in the quieter hours of the morning.
2. **Limiting the number of people in the outdoor area after 00:30**: This will help minimize noise from patrons and discourage people from congregating on the beach, which can otherwise lead to safety concerns.
3. The Licence holder and staff must undertake regular inspections inside and outside the premises in order to monitor noise levels and ensure that both ambient sound and sound generated by recorded or live entertainment is at a level that does not constitute a nuisance.

These suggestions are precautionary measures to help balance the needs of your business with those of the local community.

I would appreciate if you could review these and let me know.

With the above conditions considered, the Environmental Protection Team is happy to forward the application without any further comments.

Best Regards
Duduzile