



Regulatory Services  
Bartholomew House  
Bartholomew Square  
Brighton  
BN1 1JP

### EG CON ENDS 16.06.2025 VALID PCD, PPN & CIZ (A)

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

Date: 3 June 2025  
Our Ref: 2025/01237/LICREP/EH  
Email: **REDACTED**

Dear Emma Grant

#### **RE: Licensing Act 2003 - Representation to the application for a new Premises Licence application for Smacks Hamburger - 46 West Street, Brighton, BN1 2RA**

I refer to the application made by Bino Hospitality Ltd, for a new Premises Licence Smacks Hamburger - 46 West Street, Brighton, BN1 2RA. The proposed hours are for Late Night Refreshment, Sunday - Thursday from 23:00hrs to 02:00hrs, Friday - Saturday from 23:00hrs to 03:00hrs and opening from 08:00 every day.

I have concerns about this application and make a representation on the grounds of the prevention of crime and disorder and the prevention of public nuisance and that this application is contrary to our Statement of Licensing Policy (SoLP).

The council has a special policy to address cumulative impact which is reviewed every 3 years, most recently in February 2024. The special policy was set up 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 special policy will only be overridden in exceptional circumstances. New applications and variations to existing licences 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.

Smacks Hamburgers located at 46 West Street falls within the cumulative impact zone (CIZ). The Matrix Model states no to 'late night takeaways' in premises that fall within the cumulative impact zone.

Telephone: 01273 290000  
[www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk)  
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Guidance issued under S182 of the Licensing Act 2003 states 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 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, CIZ and matrix approach to decision making policies), 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, I acknowledge the applicant has addressed the premises location within the CIZ and has put additional provisions in their operating schedule which will help to minimise some risk. Including the provision of door staff on Fridays and Saturdays from 21.00 until close. Nonetheless granting this application is still likely to add additional burdens and problems in an already challenging area particularly when customers are waiting in the premises to place or collect orders and deliveries are taking place until 2am Sunday to Thursday without any door staff.

I therefore wish to bring the application to the attention of the panel so that they can question the applicant further and decide whether this application constitutes exceptional circumstances to depart from the policy.

Yours sincerely

**REDACTED**

**Emily Fountain**  
**Licensing Officer**

Licensing Team  
Environmental Health and Licensing  
Regulatory Services



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

03/06/2025

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

Dear Emma Grant,

**RE: APPLICATION FOR A NEW PREMISES LICENCE FOR SMACKS HAMBURGERS,  
46 WEST STREET, BRIGHTON, EAST SUSSEX, BN1 1RA UNDER THE LICENSING ACT  
2003. 1445/3/2025/04016/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 and public nuisance. 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 (February 2025).

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:

**Late Night Refreshment (Outdoors)**

**Everyday:** 23:00 – 03:00

*Applicant has ticked 'outdoors' for where the provision of late-night refreshment will take place – this is believed to be an error as they make mention that 'seating will not be used after 23:00' and tables and chairs inside the premises are shown on the plan, meaning that 'indoors' is likely to be required as well.*

**Opening hours**

**Everyday:** 11:00 – 03:00



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.'*

While Sussex Police acknowledge that the premises application is not asking for the sale of alcohol, offering hot food and hot beverages into the early hours encourages persons who may be under the influence of alcohol or drugs to remain in the area, which is at the heart of the night time economy in Brighton (West Street). This increases the risk of crime and disorder, anti-social behaviour and public nuisance.

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 late night refreshment are a 'No' in West Street (CIZ). Applications of this nature, which are likely to add to existing cumulative impact, should be refused following relevant representations.

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.'*

The applicant did not pre consult with Sussex Police and we do not believe they offer any unique reasons why their application would be an exception to policy or why the SoLP matrix should be departed from. While they do make mention of the BHCC Special Policy and Statement of Licensing Policy (SoLP) within their application, it is not felt that anything they have provided fully addresses the local concerns or shows that their application will have no negative cumulative impact. Therefore, Police believe this application does not provide evidence to rebut the presumption of refusal in the CIZ.

Paragraph 14.40 of the Secretary of State's Guidance to the Licensing Act 2003 (February 2025) 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 has offered some information under Section M of their application and provided a separate document of proposed conditions. While welcomed, Sussex Police do not believe these go far enough to help mitigate any potential risk in this area of the City. The



conditions currently offered can go some way to reduce incidents occurring and being managed within the premises itself, however, there are no conditions that can address the risks around take away and what happens once customers leave the premises. Sussex Police additionally contend that the carrying on of additional licensable activity and the hours applied for at these premises will add to the existing cumulative issues in this area, particularly if it remains open to the public for walk in and collection. The address has previously had a premises licence that was suspended on 31<sup>st</sup> December 2024 due to unpaid fees. This licensed the sale of alcohol and late-night refreshment but only up until 00:00 daily.

While we are unable to support this application and are seeking refusal, we have drawn up a list of potential conditions which go beyond what has been offered within the application. Should the panel be minded to grant this application in full or part, we ask you to consider imposing the conditions attached at Appendix 1. These can be added to or amended depending on what clarification the applicant provides.

Additionally we ask for following to be considered and explored, if the panel are minded granting:

- Eat in only from midnight or closing the premises to the public fully from midnight and offering a delivery only service.

*By permitting consumption only within the venue they then take responsibility for the safeguarding of their customers and can have SIA security in place to help manage this. The applicant has offered 1 x SIA on duty from 21:00 on a Friday and Saturday night in their conditions.*

*Allowing people to walk in/takeaway means this safeguarding then falls to other agencies when customers leave the premises. This risk can be reduced if the premises is physically closed to the public with no collections from a certain time and only deliveries permitted.*

- Deliveries can only be made to a private or workplace address.

*This would stop consumption in public spaces in the early hours outside of safe controlled spaces.*

- Reduction in hours for Late Night Refreshment

*Recent Operation Marble crime data (February - April 2025) has shown that there is a peak risk of violent, sexual and drug offences on a Saturday and Sunday all the way up to 05:00, evidencing the very real risk to the licensing objective of crime & disorder. The hotspot during the Marble Designated Patrol Activity was the city centre with West Street as a focal point. Violent and drug offences accounted for 66.3% of offences during the DPA in February - March 2025 and 67.7% of offences in March – April 2025.*



An additional condition of:

- The premises will not operate under this licence until all conditions set within it are evidenced to Sussex Police and the Local Authority Licensing Team as being adhered to.

*The reason for this being that other recent applications that have been granted have been open and operating prior to adhering to all the conditions set at a hearing, putting the public and their staff at risk.*

As mentioned previously, there is a presumption of refusal in this area, so it is for the applicant to show what their exceptional circumstances are and to evidence that their application will have no negative cumulative impact. We do not believe the applicant has done this and what is offered does not evidence an exception to Policy or that special attention has been paid to mitigate cumulative impact when drawing up an operating schedule. Therefore, Sussex Police invite the Licensing Authority to seriously consider refusing this application in light of the Police concerns, local issues and Local Authority special policy.

Yours sincerely,

**REDACTED**

**Insp Ben Morrison**

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

Attachments:

- Appendix 1 – potential conditions

*Please address all future correspondence to Brighton & Hove Licensing Unit, Police Station, John Street, Brighton, BN2 0LA.*

**Smacks Hamburgers, 46 West Street, Brighton – Proposed Conditions**

**General**

1. Authorised staff employed by Sussex Police in the role of licensing officer shall have the right of access to the licensed premises during hours of operation for the purpose of inspection of the premises and premises records in order to ensure the promotion of the licensing objectives.

**Prevention of crime & disorder**

2. 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 if CCTV footage is required to prevent and detect suspected or alleged crime; CCTV footage will be available to be viewed immediately and any CCTV footage that is required to be downloaded will be made available within 24 hours of an incident.
  - (e) 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, within 24hrs and without charge.
  - (f) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable - [brighton.licensing@sussex.police.uk](mailto:brighton.licensing@sussex.police.uk).
  - (g) 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.
3. A minimum of one (1) SIA licensed door supervisor shall be employed at the venue every Friday and Saturday. The door supervisor will be on duty from 21:00 until close ensuring that all customers have left the vicinity of the premises.
4. 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.

5. At all times the premises is open to the public, the management will contract the back up services of an approved mobile support unit (MSU) that operates at all times the premises is open to the public, with a minimum of 2 SIA registered Door Supervisors operating from it. A copy of the MSU contract will be retained at the premises and made available for immediate inspection upon request by Sussex Police or Council Officials. The MSU will be accredited by the Brighton Crime Reduction Partnership (BCRP) or other similar organisation approved by Sussex Police should the BCRP not be in existence.
6. The premises will become a member of the Brighton Crime Reduction Partnership or similar scheme approved by the Licensing Authority. The scheme must operate, subject to local coverage, radios and additionally an exclusion/banning scheme of named individuals within both the day and nighttime economy.
7. 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) all ejections of patrons
  - c) any complaints received concerning crime and disorder
  - d) any incidents of disorder
  - e) all seizures of drugs or offensive weapons
  - f) any visit by a relevant authority or emergency service.
8. The incident log will:
  - a) be inspected and signed off by a manager at least once a month.
  - b) 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 7 above.
  - c) be used to give feedback to staff to ensure that the log is used on each occasion that an ejection or incident occurs at the premises and to identify any patterns or trends.
  - d) be kept for a minimum of twenty four (24) months.

### **Public safety**

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### **Prevention of public nuisance**

9. The management will ensure that delivery vehicles waiting or arriving to collect orders will be parked/waiting legally and not causing a public nuisance by way of obstructing the highway or footpaths.
10. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

### **Protection of children from harm**

11. All staff will be trained in:

- Identifying persons who are vulnerable for reasons which could include, but are not limited to: their age, intoxication and / or drugs, as well as identifying potential perpetrators.
- Conflict management.

The operator will have a policy in place assisting staff in how to deal with such situations.

All 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.

Further verbal reinforcement/refreshers training covering the above will be carried out thereafter at intervals not to exceed 12 weeks, with the date and time of the verbal reinforcement/refreshers training documented.

