




Brighton & Hove
City Council

Licensing Panel

(Licensing Act 2003 Functions)

Title:	Licensing Panel (Licensing Act 2003 Functions)
Date:	7 September 2018
Time:	10.00am
Venue	G91, Hove Town Hall, Norton Road, BN3 3BQ
Members:	Councillors: Hyde, Marsh and O'Quinn
Contact:	Greg Weaver Democratic Services Officer 01273 29-1214 greg.weaver@brighton-hove.gov.uk

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AGENDA

28 TO APPOINT A CHAIR FOR THE MEETING

WELCOME & INTRODUCTIONS

29 PROCEDURAL BUSINESS

(a) **Declaration of Substitutes:** Where Councillors are unable to attend a meeting, a substitute Member from the Licensing Committee may attend, speak and vote in their place for that meeting.

(b) **Declarations of Interest:**

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) **Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

30 APPLE CART LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

5 - 42

Contact Officer: Sarah Cornell
Ward Affected: Hanover & Elm Grove

Tel: 01273 295801

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

NOTES: *Applicants, Agents, Representatives from Statutory Authorities and Other Interested Parties are kindly requested to wait outside before the beginning of the hearing until called in together by the clerk.*

There may be more than one item on this agenda, and as such the item you are interested in may not be heard until later in the day. However, the Chair reserves the right to alter the running order of the agenda at the start of the meeting without prior notice.

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Date of Publication - Thursday, 30 August 2018

Licensing Panel (Licensing Act 2003 Functions)

Agenda Item 30
Brighton & Hove City Council

Subject:	Application for a Variation of a Premises Licence under the Licensing Act 2003		
Premises:	Apple Cart 192 - 193 Lewes Road Brighton BN2 3LA		
Applicant:	Fig Tree Trading Limited		
Date of Meeting:	7 September 2018		
Report of:	Executive Director of Neighbourhoods, Communities & Housing		
Contact Officer:	Name:	Sarah Cornell	Tel: (01273) 295801
	Email:	sarah.cornell@brighton-hove.gcsx.gov.uk	
Ward(s) affected:	Hanover And Elm Grove		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 To determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for Apple Cart.

2. RECOMMENDATIONS:

- 2.1 That the Panel determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for Apple Cart.

3. CONTEXT/BACKGROUND INFORMATION & CONSULTATION

- 3.1 The application is for a Variation of a Premises Licence under the Licensing Act 2003. The application proposes to extend the permitted hours for the sale of alcohol for consumption off the premises to be from 09.00 to 02.00 the following day, Sunday to Thursday and from 09.00 to 03.00 the following day Friday to Saturday.
- 3.2 Section 16 (operating schedule) of the application is detailed at Appendix A

3.3 Summary table of existing and proposed activities

	Existing	Proposed
M) Supply of Alcohol	Monday – Saturday 09:00 to 23:00 Off the premises Sunday 09:00 to 20:00 Off the premises	Sunday – Thursday 09:00 to 02:00 Off the premises Friday – Saturday 09:00 to 03:00 Off the premises
O) Hours premises are open to public	Monday – Saturday 07:00 to 23:00 Sunday 09:00 to 20:00	Sunday 09:00 to 02:00 Monday – Thursday 07:00 to 02:00 Friday – Saturday 07:00 to 03:00

3.4 Existing licence attached at Appendix B

3.5 Special Stress Area: The premises falls within the Special Stress Area. This area is deemed an area of special concern in terms of the levels of crime, disorder, and public nuisance experienced within them. (See paragraphs 3.2 – 3.2.4)

Representations received

3.6 Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. A summary appears below:

3.7 Five representations were received. They were received from a local Councillor, Sussex Police, Trading Standards, The Licensing Authority & Public Health.

3.8 Representations received had concerns relating to Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance & Protection of Children from Harm.

3.9 Full details of the representations are attached at Appendix . A map detailing the location of the premises is attached at Appendix D.

4. COMMENTARY ON THE LICENSING POLICY

4.1 The following extracts from Brighton & Hove City Council Statement of Licensing Policy are considered relevant to this application and **are numbered as they appear in the policy**:

1. Introduction

1.1 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 (the Act) and having regard to Guidance issued by the Home Office under Section 182 of the act. The licensing authority is Brighton

& Hove City Council. The purpose of this statement is to promote the licensing objectives and set out a general approach to making licensing decisions. The discretion of the licensing authority in relation to applications under the act is only engaged if 'relevant representations' are made by other persons or responsible authorities. This policy will inform the approach to be taken when deciding applications and imposing conditions when relevant representations are received. It is also intended as a guide for applicants as to what to include in their operating schedules, always recognising that if no representations are received, the application must be granted. The licensing authority must carry out its functions with a view to promoting the licensing objectives and this policy is framed around those objectives. Each application will be given individual consideration on its merit. The scope of this policy covers the following:

- Retail sales of alcohol;
- The supply of alcohol by or on behalf of a club, or to the order of, a member of the club;
- The provision of regulated entertainment;
- The provision of late night refreshment.

1.2 The licensing objectives are: -

- (a) Prevention of crime and disorder;
- (b) Public safety;
- (c) Prevention of public nuisance;
- (d) Protection of children from harm.

1.3 Scope

Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations; i.e. the premises and its vicinity. Each application will be given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the act.

3 Special Policies and Initiatives

3.2 Special Stress Area

The map below details the area of the Brighton city centre which borders the Cumulative Impact zone at 3.1.3 and which is deemed an area of special concern in terms of the levels of crime and disorder and public nuisance experienced within it. The area recommended for further monitoring and detailed guidance within the Special Policy comprise the following as pictured below delineated in purple:

Cumulative Impact and Special Stress Area



The Special Stress Area - an area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Holland Road northwards to its intersection with the north side of Lansdowne Road; eastwards to the junction with Furze Hill, along the north side Furze Hill to its end and then due east along Victoria Road to its junction with Montpelier Road (west side), north to where Montpelier Road joins Vernon Terrace then north to Seven Dials; north west along the west side of Dyke Road until the junction with the Old Shoreham Road, then East along the north side of Old Shoreham Road, north end of New England Road, across the north side of Preston Circus, eastwards along the north side of Viaduct Road, then at the junction with Ditchling Road, North East along the north side of Upper Lewes Road until the junction with Lewes Road; south along the Lewes Road to junction with Hartington Road, along the north side of Hartington Road until the junction with St. Helen's Road, south into May Road, eastwards until its junction with Freshfield Road, then south into Upper Bedford Street, into Bedford Street to the mean water mark south of Bedford Street, then due west until the mean water mark south of Lower Rock Gardens.

3.2.1 This Special Stress Area (SSA) is of concern to the licensing authority because of the relatively high levels of crime and disorder and nuisance experienced within it. The area will be kept under review.

3.2.2 New and varied applications for premises and club premises certificates within the SSA will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas. Appendix A of the SoLP sets out a list of potential measures the licensing authority considers may be appropriate. These

may be more or less appropriate depending upon the style of operation applied for.

- 3.2.3 On receipt of any application in the SSA, where a relevant representation has been made, the licensing authority will scrutinise the application carefully and will look at the measures proposed in the operating schedules and compare them to the measures set out in Appendix A, Licensing Best Practice Measures. Where discretion has been engaged, those applications which fall short may be refused or conditions applied to comply with policy measures.
- 3.2.4 The Licensing Authority will keep the Cumulative Impact Zone and Special Stress Area under review. Should the authority find that problems of crime and disorder or nuisance are not improving, or are worsening, the Special Policy will be reviewed.

3.3 The Matrix Approach

The Licensing Authority will support:

- 3.3.1 Diversity of premises: ensures that there is a mix of the different types of licensed premises and attracts a more diverse range of customers from different age groups, different communities and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This will have a positive effect in reducing people's fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time may create opportunities for violent crime and public disorder and therefore supports: mixed use venues encouraging a wider age balance.
- 3.3.2 A "matrix" approach to licensing decisions has been adopted and is set out below. It provides a framework of what the licensing authority would like to see within its area and gives an indication of the likelihood of success or otherwise to investor and businesses making applications.

Matrix approach for licensing decisions in a Statement of Licensing Policy (times relates to licensable activities)

	Cumulative Impact Area	Special Stress Area	Marina	Other Areas
Restaurant	Yes (midnight)	Yes (midnight)	Yes	Yes (midnight)
Café bar	Yes (11.30)	Yes (midnight)	Yes	Yes (midnight)
Late Night Takeaways	No	Yes (midnight)	Yes	Yes (midnight)
Night Club	No	No	Yes	No
Pub	No	Yes (11pm)	Yes	Yes (midnight)
Non-alcohol lead (e.g. Theatre)	Yes (favourable)	Yes (favourable)	Yes	Yes (favourable)
Off-licence	No	No	Yes	Yes (Up to 11pm but if in densely residential area may be earlier – see note 7 below)
Members Club (club premises certificate)	Yes (<100 capacity) (11pm)	Yes (<100 capacity) (11pm)	Yes	Yes

Notes on matrix

Subject to the following notes, the policy, as represented in the matrix, will be strictly adhered to:

- 1) Each application will be considered on individual merit
- 2) Applications within the CIZ are subject to the special policy on cumulative impact at para 3.1, and those within the special stress area to the special stress policy considerations at para 3.2.
- 3) Departure from the matrix policy is expected only in exceptional circumstances
- 4) Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix.
- 5) Exceptional circumstances may include: consultation with and meeting requirements of responsible authorities, an appropriate corporate social

responsibility policy, community contribution to offset impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary to business activity (demonstrable to responsible authorities and licensing authority, for instance by licence condition allowing authorised officers access to sales accounts).

- 6) The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community based street parties, members' clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre.
- 7) Other Areas; consideration will be given to the nature of the area and location in relation to any application. In a residential area for example the concerns of local residents will be relevant when considering applications for off-licences, pubs or café bars, especially if there is evidence of anti-social behaviour, street drinking or underage drinking. Earlier closing times may be appropriate. Regard will be had to the Public Health Framework for assessing alcohol licensing and the Street Community and Drug Activity Profile. These documents are available on the following page of our website www.brighton-hove.gov.uk/licensingact.
- 8) In an area where there are already several existing off-licences and where representations are received about negative cumulative impact on the licensing objectives of a further premises, the application may be refused on these grounds.
- 9) Outdoor events will be supported where arranged through the council's event planning process. Generally, regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The Licensing Authority will have regard to Noise Council guidance.

3.5 Off licences

- 3.5.1 In recent years there has been a noticeable shift towards more people buying alcohol from shops and drinking at home before going out prior to going into premises such as pubs and clubs. The council is concerned that alcohol loading from off-licence sales is a significant problem in the city and adversely affects the licensing objectives as it gives rise to problems of drunkenness, disorderly behaviour and a higher risk of alcohol sales to children. Representations from the police, local residents and the director of public health at licensing panel hearings have testified to these problems and Information published in the Public Health Framework for assessing alcohol licensing presents a ward by ward analysis of crime and disorder and health data which is relevant in this respect.
- 3.5.2 The special policy on cumulative impact and the special stress areas apply to off-licences as explained in the matrix approach at 3.3. But in general where applications are made for new premises or variations to existing licences, and where the police or others make representations against the grant of a further licence for off sales, the council will give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption off the premises. Decisions will be grounded in the Public Health Framework for assessing alcohol licensing. The council will want to be assured that the operating schedule of premises, and their overall management, training and levels of staffing, are appropriate to ensure that the licensing objectives are promoted in what may be challenging circumstances. Retail outlets and stores

where the provision of fresh produce is the principle product sold maybe considered more favourably.

3.5.3 The Licensing Authority encourage off licences to join the Council led “Sensible on Strength” scheme to reduce the availability of cheap super strength beers and ciders. Off licences voluntarily sign up not to sell cheap super-strength beers and ciders over 6% ABV and operate good practice measures (see 3.5.4), for which they receive an accreditation as a responsible retailer.

3.5.4 Areas of best practice that may be included in an Operating Schedule include;

- the installation of a digital CCTV system by liaison with, and to a standard approved by Sussex Police
- Challenge 25 policy
- Refusals system
- Documented staff training including underage sales, drunkenness and proxy sales
- Voluntary restriction of high strength alcohol - operating schedules may be used to limit high ABV beers and ciders
- BCRP membership (or other accredited scheme)
- No sale of single cans
- Displays should not be located at the entrance/exit points or near checks out

3.6 Street drinking

3.6.1 Licensing authority will have regard to areas highlighted by the Street Community and Drug Activity Profile, produced by the Safe in City Team at Brighton Police Station. This document is available on the following page of our website www.brighton-hove.gov.uk/licensingact. These hot spot areas are considered high risk for street drinkers and the Licensing Authority will have regard to prevention of crime and disorder by virtue of street drinking and anti-social behaviour when considering applications in this area.

4 Prevention of Crime and Disorder

4.1.1 The following details and measures are intended to address the need for the prevention of crime and disorder which may be associated with licensed premises and certificated club premises. Conditions attached to licences and certificates will, as far as possible, reflect local crime reduction strategies.

4.1.2 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority expects that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door supervisors so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify

children at risk and issues of basic child protection. It is the duty of the designated premises supervisor (DPS) to train staff on induction concerning conditions on their premises licence.

- 4.1.3 It is expected that the DPS will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises and that staff are authorised by the DPS.
- 4.1.4 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.

4.3 Care, control and supervision of premises

- 4.3.1 The Licensing authority supports the Business Crime Reduction Partnership and other approved schemes. Where appropriate, premises licence holders should be members of the BCRP for the deterrence to violent crime that such membership provides. The BCRP NightSafe radio scheme is normally expected as an operational requirement for city centre bars, clubs and pubs and is an example of good practice in achieving the aim of reducing crime and disorder and improving public safety. Well managed pub-watch schemes provide information exchange between the premises licence holders and responsible authorities that reduce and deter violent crime and disorder. The council will support a responsible licensing scheme.
- 4.3.2 The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The police will consider the applicants, objecting to the application where appropriate. The police may suggest crime prevention measures in relation to, for example, the internal layout of the premises, closed-circuit television, help points, lighting and security staff. The police may ask for conditions which support such measures to be imposed when licensing applications are granted, eg type of licence, capacity, operating hours' restrictions.
- 4.3.3 Following the grant of a licence, the management and supervision of the premises, in so far as it might impact on crime and disorder, will continue to be monitored. Particular attention will be paid to any licensed premises where there is evidence of criminal activity or any association with racist or homophobic crime. The licensing authority will keep itself well briefed on the nature, location and type of premises where alcohol related violence and disorder are occurring so it can take full account of the facts and avoid exacerbating problems as required by the Community Safety Strategy. Where licensed premises are found to cause nuisance or be associated with disorder or unreasonable disturbance, the review process may be invoked, and powers of revocation or the imposition of conditions may be considered. Conditions may include use of closed-circuit television, licensed door supervisors and earlier closing times. Such action to restrict the operation may be taken for trial periods to allow businesses an opportunity to remedy existing disorder, nuisance or disturbance.

4.3.4 This policy recognises the use of registered Door Supervisors All Door Supervisors will be licensed by the Security Industries Authority. Mobile security units and similar systems are in use by some premises operators as a means of providing security cover at very short notice at premises which may not normally require a permanent security presence. The Licensing Strategy Group has sought to define the standards and operating guidance for such mobile units, which will be in need of regular review. This policy endorses the use of units following such guidance and standards in appropriate circumstances. A copy can be found on the licensing pages of the council's website.

4.3.5 The development of codes of practice and general operating standards for security companies is encouraged for local businesses; premises operators are urged to ensure that security services, when engaged, are provided by suitably qualified businesses operating to recognised standards and who should be working towards SIA accreditation.

5 Public Safety

5.1 The following details and measures are intended to address the need for the protection of public safety which may be associated with licensed premises and certificated club premises.

5.1.3 Conditions may be imposed in accordance with operating schedules to protect public safety including where justified:

(a) provision of closed-circuit television and panic buttons.

6 Prevention of Public Nuisance

6.1 The following details and measures are intended to address the need for the prevention of public nuisance which may be associated with licensed premises and certificated club premises.

6.1.1 In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, as a result of people entering or leaving the premises or from individuals or groups of customers gathered outside (e.g. in order to smoke).

6.1.5 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.

6.1.6 Reasonable controls are available to all premises operators to minimise the impact of noise from customers outside. The council's Environmental Health Department has issued guidance on a number of steps that can be taken in this respect which are endorsed by this policy (see 6.2 below).

6.2.2 Licensed premises should normally display prominent, legible signs at exits reminding customers to leave in a quiet, peaceful, orderly manner.

7 Protection of Children from Harm

7.1 The following details and measures are intended to address the need for the protection of children from harm; this includes emotional and physical harm which may be associated with licensed premises and certificated club premises (for example the exposure too early to strong language and sexual expletives, e.g. in the context of film exhibitions or where adult entertainment is provided). It is intended that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed without restricting conditions (unless the 2003 Act itself imposes such conditions or there are good reasons to restrict entry or to exclude children completely).

7.2 Licensees should note the concern of the authority that drink related disorder frequently involves under 18's. To prevent illegal purchases of alcohol by such persons, all licensees should work with a suitable 'proof of age' scheme and ensure that appropriate identification is requested prior to entry and when requesting alcohol, where appropriate. Appropriate forms of identification are currently considered to be those recommended by police, trading standards officers and their partners in the Licensing Strategy Group (e.g. passport, photo driving licence or pass card).

7.3 It is the licensing authority's expectation that all staff responsible for the sale of intoxicating liquor receive information and advice on the licensing laws relating to children and young persons in licensed premises. Licensed premises staff are required to take reasonable steps to prevent under age sales. The licensing authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of emotional or psychological harm to them. Each application will be considered on its own merit but particular areas that will give rise to concern in respect of children are to be found in section 5.3 below.

7.4 To reduce alcohol-induced problematic behaviour by under 18 year olds, to enforce underage purchase and drinking laws and to assist in the protection of children from harm, the licensing authority supports the following measures: -

- a) Police should exercise powers (Confiscation of Alcohol (Young Persons) Act 1997) to remove alcohol from young people on the street
- b) Police and trading standards should implement test purchasing to reduce sales to under 18s in on and off sales licensed premises
- c) Further take-up of proof of age schemes will be promoted
- d) In-house, mystery shopper type schemes operated by local businesses will be supported
- e) Providers of events specifically catering for unaccompanied children should consider whether all staff at such events need to be DBS checked

7.5 The licensing authority will not seek to require that access to any premises is given to children at all times – under normal circumstances this will be left to the

discretion of the licensee. The following areas give rise to concern in respect of children, who will normally be excluded from premises:

- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is commonly provided;
- where premises are used primarily or exclusively for the sale and consumption of alcohol and there is little or no seating for patrons.

Options may include:

- limitations on the hours when children may be present;
- age limitations (below 18);
- limitations or exclusions when certain activities are taking place;
- requirements for an accompanying adult;
- full exclusion of people under 18.

7.8 Trading standards and the police undertake ongoing enforcement operations around under-age sales and test purchasing. Sussex Police, BCRP and undertake work concerning proxy purchases and counterfeit ID as part of the partnership support work with Community Safety and Trading Standards.

7.9 Trading standards have a programme of business support including training for local businesses to avoid under-age sales.

8 Integration of Strategies

8.1 The licensing authority shall secure the proper integration of this policy with local crime prevention, planning policy, transport, tourism and cultural strategies by:-

- Liaising and consulting with the Sussex Police, Community Safety Forum, Sustainability Commission representatives and following the guidance in community safety and crime and disorder strategy
- Liaising and consulting with Public and Alcohol Programme Board
- Liaising and consulting with the East Sussex Fire & Rescue Service
- Liaising and consulting with the Local Strategic Partnership, Safety Advisory Group (Emergency Planning) and Equalities and Social Justice Consultation Forum
- Liaising and consulting with the Planning authority
- Liaising and consulting with the Highways authority
- Liaising and consulting with local business and business associations. Having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols
- Liaising and consulting with the Trading Standards Team, for example with regard to test purchasing codes of practice

- 8.2 In line with statutory requirements and the Council's Inclusion Policy, the Licensing Authority shall have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and positive relations between persons of diverse backgrounds, for example communities of interest such as: lesbian, gay, bisexual and transgender people; disabled people; racial and ethnic groups; religious and faith groups.
- 8.3 This policy supports the aims of the tourism strategy, recognising the benefits for the tourism economy of creating a safer and more attractive city centre and improving competitiveness with other European cities. The Licensing Committee should receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area to ensure that it considers these matters.
- 8.4 The Licensing Committee should receive relevant information relating to the employment situation of the area and the need for new investment and employment where appropriate.
- 8.5 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include the use of closed circuit television cameras, use of the NightSafe radio system or accredited scheme, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening. Certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements listed above.
- 8.6 The licensing authority will have regard to the need to disperse people quickly and safely from the city centre to avoid concentrations which may produce disorder and disturbance.

APPENDIX A – Licensing Best Practice Measures

Best Practice Measures to be included for consideration, in particular in SSA:

Matters that would normally be expected in operating schedules:

- the adoption of a policy (e.g. Challenge 25) with acceptable proof of id as per existing Statement of Licensing Policy
- all off sales to be made in sealed containers for consumption away from the premises
- a smoking policy which includes an assessment of noise and litter created by premises users
- the use of plastic or polycarbonate drinking vessels and containers, especially in outside areas or after specified hours
- a policy in relation to searching customers and for drugs, weapons, seized or lost and found property
- use of a refusals book for registering attempts to buy alcohol by under-age persons or refusals to those intoxicated
- the installation of a digital CCTV system by liaison with, and to a standard approved by, Sussex Police

- policies for dispersal of customers which may include signage regarding taxi services' telephone numbers and advice to respect neighbours and minimize noise

Items to which positive consideration would be given:

- membership of Business Crime Reduction Partnership, Pubwatch, Neighbourhood Watch or similar schemes
- use of 'NightSafe' radio system or similar accredited scheme
- regular training and reminders for staff in respect of licensing legislation, policies and procedures; records of which should be properly recorded and available for inspection
- records of regular checks of all parts of the premises in relation to drug use
- systems in place to ensure details of barred clients are exchanged with other operators
- giving an agreed minimum notice of special events (screening of major sports events, birthday parties, adult entertainment, etc.) to relevant authorities and use of appropriate additional measures at such events

Recommend best practice for both on and off premises

- Staff must be aware of the risk of the problem of proxy sales and offer assistance to responsible authorities to deter offences
- Signage on premises should set out legal duties
- Voluntary restriction of high strength alcohol – operating schedules may be used to limit high ABV beers and ciders
- Staff training – in addition to personal licence holders training, staff must be adequately trained for duties
- Challenge 25 would be the norm, particularly in the off licence trade
- Signage – proxy sale – deterrence

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The Licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime.

Finance Officer Consulted Monica Brooks

Date: 17/08/18

Legal Implications:

5.2 The licensing authority must act to promote the four licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The licensing authority must have regard to its statement of licensing policy and the guidance issued by the Secretary of State in carrying out its functions.

Lawyer Consulted: Rebecca Sidell

Date: 21/08/18

Equalities Implications:

5.3 Diversity is valued and strong, safe communities are vital to future prosperity. Licensing policy aims to protect children from harm including sale and supply of alcohol to children.

Sustainability Implications:

5.4 Licensing policy aims to prevent public nuisance and develop culture of live music, dancing and theatre.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A – Section 16 (operating schedule) of the Application
2. Appendix B – Part A of Premises Licence
3. Appendix C – Representations
4. Appendix D – Map of area

Documents in Members' Rooms

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2016 as amended 24th March 2016.

Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003, April 2018.

Public Health Framework for assessing Alcohol Licensing. Annual Report – Ward. 3rd edition. Public Health Intelligence. October 2017

Background Documents

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2016 as amended 24th March 2016.

APPENDIX A

Section 16 of 18

LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

All existing conditions to remain in force. The applicant is aware that the premises is located in the Special Stress Area but considers that the conditions already in force and those offered below will led to the Licensing Objectives being fully promoted and no increase in negative cumulative impact.

b) The prevention of crime and disorder

All existing conditions to remain in force.

The following additional conditions are offered:

1) A minimum of 2 staff shall be on duty at all times that alcohol is available for sale in the premises and on Friday, Saturday, Bank Holiday Sundays and all Bank Holidays a minimum of 3 shall be on duty from 23.00 to the terminal hour until the shop is closed to the public.

2) An incident book shall be kept at the premises, and made available to the Police or Authorised Officers, which will record the following:

- a) All crimes reported;
- b) Lost property;
- c) All ejections of customers;
- d) Any complaints received;
- e) Any incidents of disorder;
- f) Any faults in the CCTV system;
- g) Details of any work carried out on the CCTV system;
- h) Any refusal in the sale of alcohol;
- i) Any visit by a relevant authority or emergency service. Where Police are called the CAD number shall be obtained and recorded;
- j) The details of SIA Door Supervisors when on duty including their full name, licence number and phone number plus their dates and times of attendance and if employed by an agency the name and contact details for the agency.

3) A minimum of 1 SIA licensed Door Supervisor shall be on duty from 23.00 to 15 minutes after close on Friday, Saturday, Bank Holiday Sundays and all Bank Holidays when alcohol is available for sale. The Door Supervisor must record in the Incident Book their full name, licence number and phone number plus their dates and times of attendance and if employed by an agency the name and contact details for the agency. Door Supervisors must clearly display their SIA licence at all times when on duty at the shop.

c) Public safety

All existing conditions to remain in force.

d) The prevention of public nuisance

All existing conditions to remain in force.

e) The protection of children from harm

All existing conditions to remain in force.

Premises Licence
Brighton and Hove City Council

Premises Licence Number

1445/3/2016/01914/LAPREN

Part I – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Apple Cart
192 - 193 Lewes Road
Brighton
BN2 3LA

Telephone number

Where the licence is time limited the dates -

Licensable activities authorised by the licence

Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities

Sale by Retail of Alcohol

Sunday 09:00 - 20:00
Excluding Sundays 09:00 - 23:00

The opening hours of the premises

Monday - Saturday 07:00 – 23:00
Sunday 09:00-20:00

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption off the Premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Fig Tree Trading Limited
Wrentnall
Shipleigh Bridge Lane
Shipleigh Bridge
Horley
Surrey
RH6 9TL

Registered number of holder, for example company number, charity number (where applicable)

Registered Business Number 09878399

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mudasar Ali

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Annex I - Mandatory conditions

S 19; mandatory conditions where licence authorises supply of alcohol

1. No supply of alcohol may be made under the premises licence
 - a) at a time when there is no designated premises supervisor in respect of the premises, or
 - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence
5. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

Minimum Drinks Pricing

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1 —
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979:
 - (b) “permitted price” is the price found by applying the formula—
$$P=D+(D\times V)$$
where—
 - (i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the Operating Schedule

The Prevention of Crime and Disorder

- I. 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.

- The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
 - CCTV footage will be stored for a minimum of 31 days
 - 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. A member of staff must be present at all times who can operate the system and supply copies of these images on request to either Police, Council or other authorised Officer.
 - The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
 - Subject to Data Protection 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 for the police without difficulty or delay and without charge to Sussex Police.
 - Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
2. Notices will be prominently displayed by the entry door and point of sales stating CCTV is in operation and the provisions of the licensing act regarding underage and proxy sales.
 3. 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.
 4. No beers, lagers or cider with an ABV content exceeding 6% will be sold other than premium speciality bottled beer, lager or cider.
 5. The area given over to the display of alcohol will be no more than 15% of the sales area.
 6. All spirits to be behind the counter and beyond arms reach of customers.
 7. No single cans of 440ml or less of beer, lager or cider will be sold; only multipacks of 4 or more cans will be sold.
 8. All alcohol shall be concealed from display when the licence is not in operation.
 9. Clear notices shall be displayed in prominent positions in the premises informing customers of the permitted / opening hours for the sale of alcohol.
 10. If a scheme is in operation the premises licence holder will ensure the premises will become a member of the Business Crime Reduction Partnership (BCRP) whilst this scheme is in

existence and if not, any similar body. The premises will sign up and pay for membership of the BCRP before alcohol is sold.

11. There will be no displays of alcohol within 3 meters of the entrance of the store or, with the exception of spirits behind the counter if the counter is situated at the front of the store.
12. No alcohol displays will be visible through the windows of the display, with the exception of spirits behind the counter and the main alcohol display.
13. There will be no advertising of alcohol outside the premises on such devices as A boards.
14. A documented security risk assessment must be written by the Designated Premises Supervisor and agreed by Sussex Police, which identifies the activities undertaken at the premises and the controls necessary to promote the licensing objectives. It will include a written assessment demonstrating what considerations have been made for both normal day to day activities and any special events or functions which may arise during the year. This document shall be immediately available for inspection by the Police and the Licensing Authority, upon request. SIA trained and licensed security staff shall be employed on occasions when a requirement is identified by the licence holder's risk assessment or requested by Sussex Police.

The Prevention of Public Nuisance

15. Notices will be prominently displayed by the exit door asking customers to respect nearby residents and to leave the shop & area quietly, not to loiter outside the shop, to dispose of litter responsibly and advising customers not to drink in the street as they are in an area subject to a DPPO.
16. Management and staff will proactively discourage persons from drinking or loitering outside the shop.
17. The shop front will be kept tidy at all times and shall be swept at close.
18. No deliveries will be received or removal of rubbish take place between 20.00 and 07.00 daily.

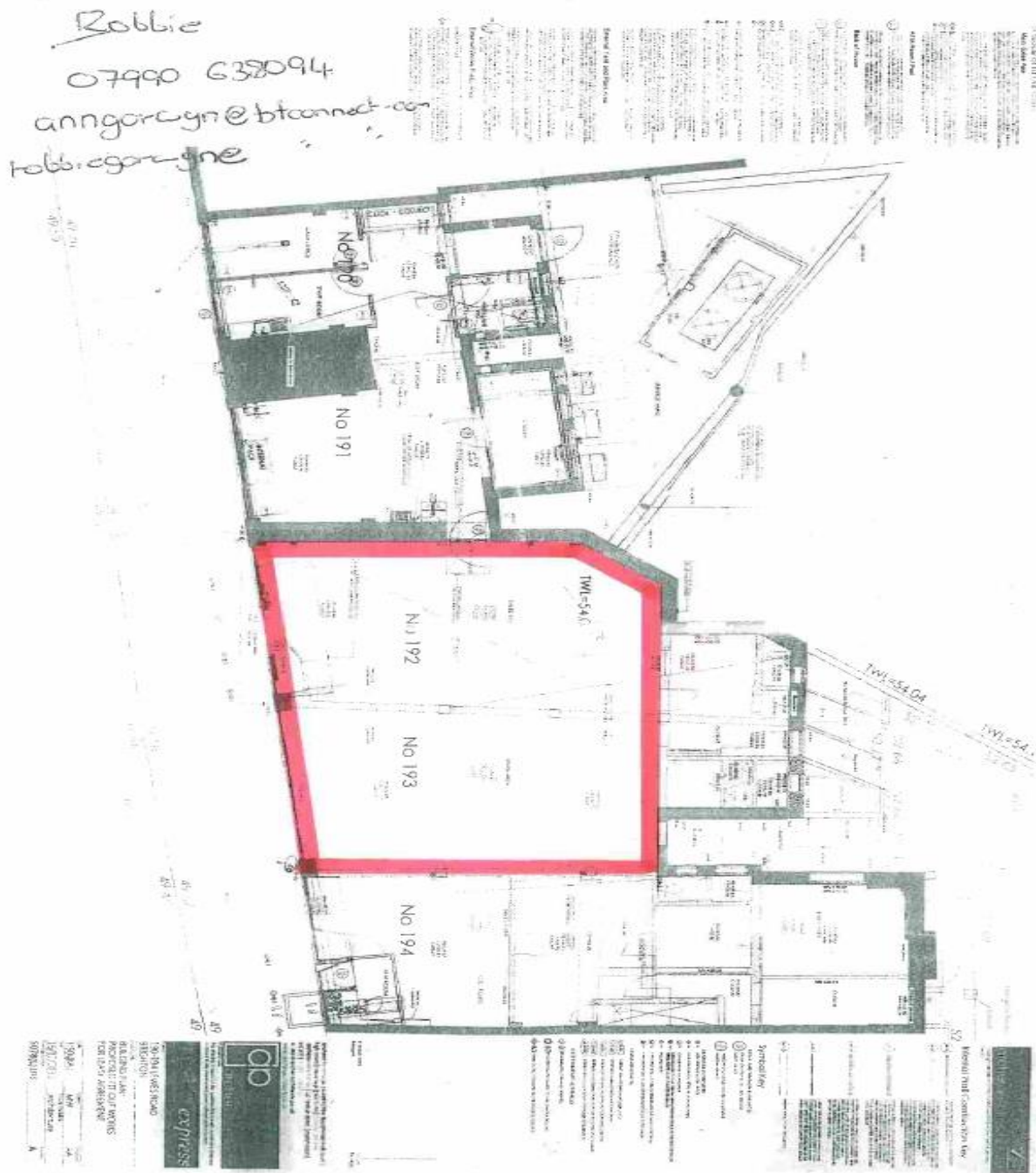
For the Protection of Children from Harm

19. The Premises Licence Holder 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:
 - The lawful selling of age restricted products;

- Refusing the sale of alcohol to a person who is drunk.
20. Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed eight weeks, with the date and time of the verbal reinforcement/refresher training documented.
 21. 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 Brighton & Hove Weights & Measures Officers upon request.
 22. 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, driving licences with a photograph or proof of age cards bearing the ‘PASS’ mark hologram. The list of approved forms of ID may be amended or revised with the prior written agreement of Sussex Police and the Licensing Authority without the need to amend the licence or conditions attaching to it.
 23. Signage advertising the “Challenge 25” policy will be displayed in prominent locations inside the premises.
 24. The premises shall at all times maintain and operate refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor at intervals of no less than 4 weeks and feedback given to staff as relevant. This refusals book shall be available upon request to police staff, local authority staff and Weights and Measures officers.
 25. The premises will not operate an alcohol delivery business.
 26. All staff to be specifically trained in proxy sales and signage to deter proxy sales will be displayed.
 27. Notices will be displayed in store stating that it is an offence for under 18’s to purchase alcohol.

Annex 3 – Conditions attached after a hearing by the Licensing Authority – N/A

Annex 4 - Plans



APPENDIX C

From: Dick Page

Sent: 16 July 2018 15:21

To: EHL Safety

Cc: David Gibson; Emma Daniel; Alistair Hill

Subject: Representation against late off-licence: Apple Cart, 192-3 Lewes (near Elm Grove) 2018/04273/LAPREV

SC CON ENDS 13.08.18 VALID PCD & PNN (A)

Dear Licensing Authority,

Please register my representation against any extension for the Apple Cart of off-sales of alcohol, from I believe the current 11pm. NB its shop front has a completely different name to this.

This southernmost stretch of the Lewes road has numerous alcohol off-sales outlets, and being the beginning of “universities corridor”, it is frequented by many young students at all hours. The higher risks of alcohol harm to this part of the population are well-documented.

It is at the Cumulative Impact Zone (CIZ) end of the city’s Special Stress Area (SSA), and borders on a ward with the highest or next-to-highest rates of general alcohol harm to health, as measured by the city’s Public Health Framework for Alcohol. These policies require very careful consideration of the impact of granting any such licence extension.

Furthermore, these premises are located within 100 metres of The Level park, where street drinking and much other antisocial behaviour is not just of longterm concern, but on the rise again.

The damage to our Licensing Objectives (public nuisance, also crime & disorder) by increasingly late night availability of alcohol in this location is a great risk.

Should this application not be withdrawn, I will try hard to attend any Panel to underline my concerns.

Thank you,

Dick (Page),

Councillor, Hanover & Elm Grove

Green Spokesperson, Health & Wellbeing

Member of Licensing Committee.

Ms Sarah Cornell
Licensing Officer
2nd Floor, Bartholomew House,
Bartholomew Square,
Brighton BN1 1JP

Date: 1st August 2018

Phone:

E-mail:

**SC CON ENDS 14.08.18
VALID PCD & PNN (B)**

Dear Ms Cornell

**RE: Licensing Act 2003 - Representation regarding the application to vary a
Premises Licence -Apple Cart, 192 - 193 Lewes Road, Brighton BN2 3LA**

I am writing regarding the above application to vary a Premises Licence for Apple Cart, 192 - 193 Lewes Road, Brighton BN2 3LA which is within Hanover and Elm Grove ward. The current premises licence allows the sale of alcohol between 09:00 and 23:00 hours Monday to Saturday and between 09:00 and 20:00 on Sundays.

The application is to vary the licence to allow for the sale of alcohol from 09:00 to 02:00 Sunday to Thursday nights and 09:00 to 03:00 Friday and Saturday nights. The applicant has recognised that the premises lie within the Special Stress Area as far as the sale of alcohol is concerned. The applicant has a number of conditions in place to try and ensure that the operation of the premises will not undermine any of the licensing objectives. These include CCTV, Challenge 25 and not selling high alcohol beers or ciders over 6% abv. These measures will provide some safeguards for the licensing objectives. However, this variation application for the times of off sales does not fit with the approval conditions set out in the licensing matrix in the Statement of Licensing Policy regarding the Special Stress Area.

As you will be aware in the city there is already considerable nuisance, crime and disorder from alcohol consumption. The premises lie within the part of Hanover and Elm Grove ward which is close to The Level and the wards of Queens Park and St Peter's and North Laine.

For the alcohol associated crime and disorder indices public health monitor, Hanover and Elm Grove Ward is ranked the seventh worst for all injury violence, the ninth worst for all violence against the person and the tenth worst for police recorded alcohol-related incidents.

For the health data public health monitor, Hanover and Elm Grove ward is ranked the fourth worst in the city for increasing risk or higher risk drinking, the seventh worst for alcohol suspected ambulance call-outs and the eighth worst for alcohol specific hospital admissions 2014-15.

For the crime and disorder and health indicators public health monitors the neighbouring wards of St Peter's and North Laine and Queens Park are two of the worst ranked wards in the city. For example St Peter's and North Laine ward is ranked the worst or second to

worst ward on all but one of the crime and disorder indices. Queen's Park ward is ranked either the second or third worst in the city for the same indicators.

This application if accepted would very likely add to this burden from alcohol, and it cannot be seen as exceptional or as having the effect of reducing the cumulative impact from alcohol. Therefore on the basis that the application is in contradiction with the Licensing Matrix set out in the council's Statement of Licensing Policy, and that the premises sits in an electoral ward and area of the city, where the impact of alcohol on nuisance, safety, crime and disorder, is already at a high level, I wish to register my objection to this licence application.

Yours sincerely,

Dr Peter Wilkinson
Consultant in Public Health
Health and Adult Social Care Directorate
Brighton & Hove City Council

Ms S Cornell
Licensing Authority
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BN1 1JP

Date: 2 August 2018
Our Ref: 2018/05325/LICREP/EH
Phone:
Email:

SC CON ENDS 14.08.18 VALID PCD, PNN & PCH (C)

Dear Ms Cornell

Licensing Act 2003

**Representation in regard to the application to vary a Premises Licence under the Licensing Act 2003 (Ref: 2018/04273/LAPREV)
Apple Cart, 192-193 Lewes Road, Brighton BN2 3LA**

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 for a variation to the existing licence to extend the opening and sale by retail of alcohol hours as follows:

- Alcohol Hours (off consumption) – Sunday-Thursday – 9am – 2am and Friday-Saturday 9am – 3am

The existing premises licence is located in the Special Stress Area and allows the sale of alcohol for off consumption Monday to Saturday from 9am – 11pm and Sunday 9am -8pm.

I make my representation on the ground that the extended licence will undermine the licensing objectives of prevention of crime and disorder, public nuisance and protecting of children from harm.

On 18 April 2017 I sent a Breach of Conditions letter to the Premises Licence Holder (PLH) and Designated Supervisor (DPS) after receiving complaints that they were trading past their licence hours. I attach a copy of this letter.

On 5 May 2017 a further breach of conditions letter was sent to the PLH and DPS following a visit by Police Licensing Officer, PC Bernascone. I attached a copy of this letter.

On 25 May 2017 a further visit was carried out at the premises jointly with Police Licensing. Following this visit I sent the PLH and DPS a Warning letter. I attach a copy of this letter.

On 15 June 2017 a joint underage test purchasing operation was carried out with Police Licensing and myself. On this occasion the premises sold alcohol to our underage volunteer. No challenge was made. A Penalty Notices for Disorder (PND) was issued by Police Licensing to the individual who sold the alcohol. On 22 August 2017 staff attended an Age Restricted Sales training course provided by myself. On 27 October 2017 a further test purchase was carried out and the premises passed.

The Licensing Authority and the Police/Local Authority partnership Alcohol Programme Board are concerned about emerging themes concerning the availability of alcohol, in particular, pre-loading, street drinking and binge drinking.

Brighton & Hove City experiences local problems and local trends such as pre-loading, binge drinking and street drinking created by cheap alcohol and fierce, localised price competition, particularly between off-licence stores and supermarkets.

The Council's Statement of Licensing Policy 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. Each application is still considered on its individual merit and there is discretion to depart from the policy where justified.

Guidance issued under S182 of the Licensing Act 2003 states in paragraph 8.38 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 8.40 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 matrix-decision making 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. On looking at the application form, particularly section 16 (licensing objectives), it seems to me that despite the applicant putting in some measures they still have little understanding of these points and has not demonstrated a potential exception to our policy.

The decision-making Matrix on page 17 of the Council's Statement of Licensing Policy states that off-licences within the Special Stress should not be granted. The aim is to reduce availability of alcohol to address late-night street drinking, binge drinking and post-loading. There is an obvious disconnect in where alcohol is sold for off consumption and any subsequent nuisance or crime and disorder. Causality of alcohol sale, consumption, nuisance and impact is difficult to link back to the place where alcohol is purchased and consumed.

The premises sits within the Special Stress Area (SSA) which as stated in our SoLP page 15 is deemed an area of special concern in terms of the levels of crime and disorder and nuisance experienced. 3.2.2 of our SOLP states that new and variation applications for premises within the SSA will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas.

As well as being located in the SSA, the premises is situated in the electoral ward of Hanover and Elm Grove, which according to our Public Health Framework for Assessing Alcohol Licensing 2017 is ranked (out of 21 wards) the fourth worst for 'Increasing risk or higher risk drinking' which will further highlight the impact that licensed premises in the area can have on crime and disorder and public nuisance.

Granting a licence with later terminal hours is likely to facilitate post-loading, late night binge drinking and street drinking in Lewes Road and surrounding areas. I do not believe that the applicant has demonstrated that there are exceptional circumstances to justify departing from the Policy and also taking into consideration previous history at the premises. I therefore request this application is refused.

Yours sincerely

Donna Lynsdale
Licensing Officer
Licensing Team
Regulatory Services

First Floor
Police Station
John Street
Brighton
BN2 0LA

07th August 2018

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

SC CON ENDS 14.08.18 VALID PCD, PPN & PS (D)

Dear Sarah Cornell,

RE: APPLICATION TO VARY PREMISES LICENCE FOR APPLE CART, 192-193 LEWES ROAD, BRIGHTON, BN2 3LA UNDER THE LICENSING ACT 2003. 1445/3/2018/04273/LAPREV

I write on behalf of the Chief Officer of Police for Sussex to raise a representation against the grant of the above variation application on the grounds of the prevention of crime and disorder, public nuisance and public safety. We also make reference to the Brighton & Hove City Council (BHCC) Statement of Licensing Policy (SoLP).

This is a proposed variation application in relation to the opening hours and permitted off sale hours of alcohol located along Lewes Road in an area defined as 'Special Stress Area' under the decision making matrix within the SoLP. The application seeks the following licensable activities and timings:

Supply of alcohol (Off Sales)

Sunday-Thursday 09:00 – 02:00
Friday-Saturday 09:00 – 03:00

Opening hours

Monday-Thursday 07:00 – 02:00
Friday-Saturday 07:00 – 03:00
Sunday 09:00 – 02:00

Paragraph 3.2.2 of the Council 2016 Statement of Licensing policy states that “*New and varied applications for premises and club premises certificates within the SSA will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas. Appendix A of the SoLP sets out a list of potential measures*

the licensing authority considers may be appropriate. These may be more or less appropriate depending upon the style of operation applied for.”

Within the application, the special stress area has been mentioned however, Sussex Police do not feel the additional conditions being offered go far enough to offer assurances that these vastly extended hours will have no negative impact on the local area.

The history of this premises goes back to their original application for a new licence in June 2016. At the time the applicant applied for the supply of alcohol to be until midnight Monday through to Saturday and 20:00 on a Sunday. Due to concerns raised then by Sussex Police, through dialog during the consultation period, the applicant agreed to cut back the hours to 23:00 Monday through to Saturday and based on this and conditions agreed upon, application went before a panel and the licence was granted.

The concerns Sussex Police had then still stand now in that the premises is situated within the special stress area along Lewes Road. This site is approximately 100 meter from The Level which historically has had a number of issues relating to alcohol related anti-social behavior. This is also proven within the SoLP paragraph 3.2.1 which states *“This Special Stress Area (SSA) is of concern to the licensing authority because of the relatively high levels of crime and disorder and nuisance experienced within it. The area will be kept under review.”*

According to the Public Health Framework for Assessing Alcohol licensing (4th edition) Hanover & Elm Grove ward is ranked 10th out of 21 wards for Police recorded alcohol related incidents as well as 7th for injury caused by violence and criminal damage.

Paragraph 3.5.2 of the SoLP states *“The special policy on cumulative impact and the special stress areas apply to off-licences as explained in the matrix approach at 3.3. But in general where applications are made for new premises or variations to existing licence, and where the police or others make representations against the grant of a further licence for off sales, the council will give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption off the premises. Decisions will be grounded in the Public Health Framework for assessing alcohol licensing. The council will want to be assured that the operating schedule of premises, and their overall management, training and levels of staffing, are appropriate to ensure that the licensing objectives are promoted in what may be challenging circumstances. Retail outlets and stores where the provision of fresh produce is the principle product sold maybe considered more favourably”*

Sussex Police consider that due to the location of this premises, these greatly increased operating schedule will impact on the local area and in turn affect the promotion of the licensing objectives. We strongly believe that the application should be brought before a council licensing committee and as such submit this representation.

Yours sincerely,

Insp Di Lewis
Licensing & Response Inspector
Local Policing Support Team
Sussex Police

The Licensing Technical Support Officers
Environmental Health
Brighton and Hove City Council
Bartholomew House
Bartholomew Square
BRIGHTON
BN1 1JP

Date: 09 August 2018
Our Ref: CM/2018/15154/B
Your Ref:
Phone:
e-mail:

SC CON ENDS 14.08.18 VALID PCD (E)

Dear Sirs

Representations in respect of an application to vary a premises licence – Best One – 192 - 193 Lewes Road Brighton BN2 3LA

I can confirm that Trading Standards wish to make representations in respect of an application to vary the premises licence.

A Trading Standards food inspection was conducted at the premises on 18 July 2018. The officer discovered on sale food past its use by date, a total of 15 items bearing dates 12 July 2018, 13 July 2018, 16 July 2018 and 17 July 2018; food past its use by date is deemed unsafe. Also discovered on sale were packs of food bearing a use by date which were discoloured and/or blown indicating that temperature control had not been maintained – unsafe food; also discovered on sale were 6 packs of chilled food with a best before date of 22 June 2018. The business was advised. The officer subsequently discovered that during the premises Food Hygiene Inspection on 15 December 2016, the officer discovered on sale food past its use by date, namely food bearing the use by date of 21 November 2016, 23 November 2016, 26 November 2016, 28 November 2016 and 04 December 2016, the business was advised at the time.

On 18 July the officer was informed by the member of staff that all alcohol is only purchased from either Bookers or Bestway and is always purchased by the owner unless he is on holiday; however the officer discovered on sale Vini D'Autore wine and Afreddo wine neither of which is sold by either wholesaler. The officer was also aware that Afreddo wine is a brand of concern as regards both traceability and duty evasion; the bottles were therefore quarantined at the premises and copy invoices/till receipts requested for both wines by 02 August 2018. The premises has failed to provide traceability for the wine, despite the business having been advised that failure to provide traceability for the wine may amount to a criminal offence and may affect their Premises Licence to sell alcohol.

It should be noted that Mr Mudasar Ali received general advice about use by dates and traceability on 22 August 2017.

Trading Standards have no confidence in the management of this business, the Premises Licence Holder or DPS to either comply with Trading Standards enforced legislation or to meet any of the Licensing Objectives.

In the circumstances, Trading Standards request that the current application be refused and that this is necessary to ensure that the Licensing Objective of the prevention of crime and disorder is met.

Yours faithfully

Catriona Macbeth
Senior Fair Trading Officer
Trading Standards

APPENDIX D



