

## **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Should this application not be withdrawn, I will try hard to attend any Panel to underline my concerns.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: 1<sup>st</sup> 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

07<sup>th</sup> 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 (4<sup>th</sup> edition) Hanover & Elm Grove ward is ranked 10<sup>th</sup> out of 21 wards for Police recorded alcohol related incidents as well as 7<sup>th</sup> 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