

APPENDIX E - Representations

Police Station
John Street
Brighton
BN2 0LA

12th September 2018

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

MSB CON ENDS 29.09.18 VALID PCD (A)

Dear Mark Savage Brookes,

RE: APPLICATION FOR A NEW PREMISES LICENCE FOR SEVEN CELLARS, 104A DYKE ROAD, SEVEN DIALS, BRIGHTON, BN1 3JD UNDER THE LICENSING ACT 2003. 1445/3/201805361/LAPREV.

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 of the prevention of crime and disorder. We also make reference to the Brighton & Hove City Council (BHCC) Statement of Licensing Policy.

This is a proposed variation application in relation to the opening hours and permitted off sale hours of alcohol located along Dyke 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)

Monday - Saturday: 10:00 – 22:00
Sunday: 11.00 – 22.00

Opening hours

Monday - Saturday: 10.00 – 22:00
Sunday 11.00 – 22.00

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 area. 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.

The concerns Sussex Police have is that the premises is situated within the special stress area along Dyke Road. The locale of this premises has had a number of issues relating to 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.”

The licensing decision matrix on page 16-17 of the Council Statement of Licensing Policy (SoLP) states that new premises applications or premises licence variations asking solely for the ‘off’ sale of alcohol in the SSA are indicated as a ‘No’ under the matrix.

The applicant has also requested to remove condition three on their licence:

‘No single cans of beer will be sold’

With some consultation we have agreed the following, and Sussex Police raise no objection to the change of condition.

1. Only Premium, specialty Craft beers and Craft lagers may be sold in single containers, however no main stream branded Beers, lagers or ciders can be sold in single containers and must be sold in a minimum pack of 4.

Sussex Police consider that due to the location of this premises, the extension of hours may increase negative impact on the local area and in turn affect the promotion of the licensing objectives. We strongly believe that the application for the extension of hours should be brought before a council licensing committee and as such submit this representation.

Yours sincerely,

Inspector Di Lewis
Licensing and Response Inspector
Local Policing Support team

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

Mr Mark Savage-Brookes
Licensing Authority
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BN1 1JP

Date: 24 September 2018
Our Ref: 2018/07014/LICREP/EH
Phone:
Email:

MSB CON ENDS 29.09.18 VALID PCD & PPN (B)

Dear Mr Savage-Brookes

Licensing Act 2003

**Representation in regard to the application to vary a Premises Licence under the Licensing Act 2003 (Ref: 2018/05361/LAPREV)
Seven Cellars, 104A Dyke Road, Brighton BN3 1JD**

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 sale by retail of alcohol hours as follows:

Supply of alcohol (Off Sales)

Monday - Saturday: 10:00 – 22:00
Sunday: 11.00 – 22.00

I have concerns about this application and make a representation on the grounds that it is made contrary to the council's Statement of Licensing Policy, specifically in relation to the Matrix decision making table regarding the Special Stress Area. Therefore this representation is made in relation to the Licensing Objectives of the Prevention of Crime and Disorder and Prevention of Public Nuisance.

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.

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.

Guidance issued under S182 of the Licensing Act 2003 states in paragraph 8.41 that in completing an operating schedule, applicants are expected to have regard to the statement

of licensing policy for their area. The guidance goes on to say in paragraph 8.43 that applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a 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 not demonstrated a potential exception to our policy and has not addressed the extra hours being applied for.

The premises sit 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.

However, the Policy is not absolute. Upon receipt of relevant representation, the licensing authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy. If an application is unlikely to add to the Special Stress Area (SSA), or the applicant has rebutted the presumption of refusal by demonstrating exceptional circumstances, then the licence may be granted.

I therefore make a representation on the grounds of the Prevention of Crime and Disorder and the Prevention of Public Nuisance to uphold our Statement of Licensing policy so that the panel can determine the application.

Yours Sincerely

Donna Lynsdale
Licensing Officer
Licensing Team