

Appendix C

REP A – Police Licensing

Police Station
John Street
Brighton
BN2 0LA

Tel: 01273 404535 ext.
REDACTED

Email:
brighton.licensing@sussex.police.uk

Date: 19th March 2024

SC CON ENDS 03.04.2024 VALID PCD, PPN, PCH & CIZ. (A)

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

Dear Sarah Cornell,

RE: APPLICATION FOR A PREMISES LICENCE FOR LEYA MARKET, 28 QUEENS ROAD, BRIGHTON, EAST SUSSEX, BN1 3XA UNDER THE LICENSING ACT 2003.

I write on behalf of the Chief Officer of Police for Sussex to raise a representation against the above licence application on the grounds of the prevention of crime and disorder prevention of public nuisance and protection of children from harm. We also refer to the Brighton & Hove City Council Statement of Licensing Policy and the Public Health Framework for Alcohol Licensing.

This is a proposed licence application in an area of the city which is subject to a Special Policy adopted by Brighton & Hove City Council. The premises lies in the Cumulative Impact Zone (as defined in the Brighton & Hove City Council Statement of Licensing Policy) and seeks the following hours and licensable activities:

Supply of Alcohol (off sales)

Monday – Sunday: 09:00 – 23:00

Opening hours

Monday – Sunday: 09:00 – 23:00

The applicant has described the premises as being a convenience store providing a range of groceries.

Paragraph 3.1.2 of the Brighton and Hove City Council 2021 Statement of Licensing Policy states:

“Special Policy - Cumulative Impact is defined as the potential impact upon the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.”

And further

Paragraph 3.1.3 of the Brighton and Hove City Council 2021 Statement of Licensing Policy states:

“The licensing authority, after careful consideration, has determined that the concentration of licensed premises in an area of the city centre is causing problems of crime and disorder and public nuisance, and that therefore an approach to ‘Cumulative Impact’ is necessary as part of its statement of licensing policy.”

When considering an application, we refer to the matrix within the Statement of Licensing Policy which sets out the expectations for new and varied applications for the City.

Cumulative Impact Zone

Restaurant Yes (midnight) / **Cafe** Yes (10.00pm) / **Pub** No / **Off-licence** No / **Late Night Takeaways** No

The location of the premises is along Queens Road, Brighton, the main throughfare to and from Brighton Railway Station. This is a very busy area with a variety of premises including Shops, Cafés, Off licences, Pubs, Restaurants and Late-Night take-aways. The premises is also close by to open green spaces such as St Nicholas Church and Brighthelm Gardens. Residential properties are situated around the premises within side roads and above retail properties.

Regarding Off Licences within the area, it’s worth noting how saturated the area is with such premises. Within no more than a 5-minute walk of the proposed premises there are a total of 11 convenience / off licence stores with various operating hours and 4 of these holding 24-hour licenses. This does not include the addition of pubs within the locality that also have off sales permissions.

The licensing decision matrix within the Council Statement of Licensing Policy suggests that new premises or premises licence variations asking for these licensable activities and hours is a ‘No’. While Paragraph 3.1.6 and 3.1.7 states

3.1.6 “The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licences or club premises

certificates within the area, or variations which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact.”

3.1.7 “This special policy also applies to all new premises licences and club premises certificates, for example pubs, restaurants and take-away establishments. **Off licences also come within this policy as they can contribute to problems of street drinking, proxy purchasing, dispersal issues, preloading and excessive drinking and related disorder.**”

The Council Statement of Licensing Policy under Paragraph 3.5 goes into detail regarding Off Licences and the concerns about the negative impact they have. Reviewing the Public Health Framework report for assessing alcohol licensing, St Peter’s & North Laine ward (of which this location sat within at the time of the report) is ranked highest for Police recorded alcohol related incidents and criminal damage and is ranked 2nd highest for sexual assaults and violent related incidents. Its also 2nd highest for suspected ambulance call outs relating to alcohol.

Although we do believe this premises falls under the “off licence” category as this is to permit the retail sale of alcohol to be consumed off site, we note within the application that the applicant claims not to be an off licence but a convenience store. We wish to be clear that we are objecting to this application as we are concerned

with the negative impact allowing a further premises to sell alcohol to be consumed off the premises (an off-licence permission) could have within the area. Within the application the applicant has not acknowledged any local concerns or offered any reasoning as to why their application would be an exception to policy or why it should be departed from.

Looking at incidents that Sussex Police have dealt with within 200-metre radius of the venue between 11th March 2023 and 10th March 2024 amongst other incidents, 199 were for violent crime, 135 anti-social behaviour, 51 criminal damage and 67 public order. Although we acknowledge that not all these incidents are linked to alcohol, when looking at these crime types alcohol is often a factor. We have concerns that permitting a further off licence and so increasing the availability of alcohol could have a further negative impact within an area that already suffers from crime and disorder. There is also the risk of alcohol being consumed within open spaces increasing anti-social behaviour and proxy sales to children and alcohol dependant persons.

The day and night-time economy can at times be challenging for all the emergency services. Within Brighton & Hove we are unique in that we have a high number of licensed venues all of which are in very close proximity to each other of which I have evidenced as mentioned above. Due to the risks associated with intoxication, the city has several initiatives that support Police and other emergency services in safeguarding the public such as BID guards, Street Marshals, Beach Patrol, Safe Space, and Street Pastors. Some of these organisations and persons involved with them are volunteers and operate in their spare time. The fact these services exist goes some way to prove the negative impact alcohol has.

Taking our comments in to consideration along with the crime data for the local area, Sussex Police invite the Licensing Authority to seriously consider refusing this application. Although we are unable to support it, we wish to do all we can to reduce any potential risk should this application go before a panel and be granted.

Attached is a list of conditions which we kindly asked are adopted should the panel be minded granting the application.

Yours sincerely,

REDACTED

Insp Mark Redbourn
Operations (inc. Licensing) Chief Inspector
Brighton & Hove Division
Sussex Police

Laya Market – Police Proposed Conditions

SC CON ENDS 03.04.2024 VALID PCD, PPN, PCH & CIZ. (A)

General:

1. Authorised staff employed by Sussex Police in the role of licensing officer shall have the right of access to the licensed premises during hours of operation for the purpose of inspection of the premises and premises records to ensure the promotion of the licensing objectives.
2. No beer, lager, cider or perry with an ABV over 6% or above shall be sold at the premises save that this shall not apply to premium beer, lager, cider or perry with an ABV over 6% or above such as craft or speciality brands or brands produced by a micro-brewery, or brands produced to commemorate a national or local event.
3. All beer, lager and cider cans excluding premium and craft brands, will only be sold in multipacks of 4 or more cans.
4. No more than 10% of the store will be used for displaying alcoholic products.
5. At all times alcohol is available to purchase, a Personal Licence Holder will be on duty at the store. When this condition cannot be complied with, all alcohol will be covered so as not to be seen.
6. All spirits will be displayed behind the serving counter only and out of arms reach from customers.
7. There will be no advertising of promotions/deals on any alcoholic product that can be seen from outside the premises including window posters.
8. There will be no advertising of alcohol placed on the outside footpath such as A boards.
9. There will be no deliveries of alcoholic products.

For the Prevention of Crime and Disorder:

10. Subject to GDPR guidance and legislation:
 - a) Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrances/exits to the premises as well as any outside space. The system shall be on and recording at all times the premises licence is in operation.
 - b) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.

- c) CCTV footage will be stored for a minimum of 31 days
 - d) The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
 - e) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
 - f) The management of the premises will ensure that key staff are fully trained in the operation of the CCTV and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Police e.g., USB) or provide footage via an online link as initiated by Police, without difficulty or delay and without charge.
 - g) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
 - h) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.
11. a) An incident and refusals log will be maintained by the premises showing a detailed note of incidents and refusals that occur in the premises. The logs will be inspected and signed off by the DPS (or a person with delegated authority) at least once a fortnight.
- b) The logbooks should always be kept on the premises and be available for inspection by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence.
- c) Any refusals made for alcohol service e.g., underage, will also be recorded (either in electronic or written form) and feedback given to staff as relevant.
- d) The logs will be kept for a minimum of twenty-four (24) months.
12. At all times the premises is open to the public, the management will contract the back up services of an approved mobile support unit (MSU) that operates at all times the premises is open to the public, with a minimum of 2 SIA registered Door Supervisors operating from it. A copy of the MSU contract will be retained at the premises and made available for immediate inspection upon request by Sussex Police or Council Officials. The MSU will be accredited by the Brighton Business Crime Reduction Partnership (BCRP) or other similar organisation approved by Sussex Police should the BCRP not be in existence.
13. The premises will become a member of the Business Crime Reduction Partnership or similar scheme approved by the Licensing Authority. The scheme must operate, subject to local coverage, radios and additionally an exclusion/banning scheme of named individuals within both the day and night time economy.

For Public Safety: -

For the Prevention of Public Nuisance: -

For the Protection of Children from Harm:

14. 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, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.
15. Signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises.
16. a) 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 face to face 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
- b) Further face to face verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 8 weeks, with the date and time of the reinforcement/refresher training documented.
- c) 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 officers from the Trading Standards team upon request.

REP B – Licensing & Trading Standards

Sarah Cornell
Licensing Authority
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BN11JP

Date: 22 March 2024
Our 2024/00527/LICREP/EH
Ref: 01273 292494
Phone:

e-mail: REDACTED

Dear Sarah Cornell

SC CON ENDS 03.04.2024 VALID PCD, PPN, PCH & CIZ. (B)

Licensing Act 2003

Representation in regard to the application for a new Premises Licence (Ref. 2024/00793/LAPREN)

Leya Market, 28 Queens Road, Brighton BN1 3XA

I write to make a representation on behalf of the Council's Licensing and Trading Standards Team, in their capacity as a responsible authority, in relation to the above application to vary a Premises Licence submitted by H Rhythm Limited.

This representation is made as the Licensing and Trading Standards Team have concerns that the application could have a negative impact on the licensing objective of Prevention of Crime and Disorder, Prevention of Public Nuisance and Protection of Children from Harm. I also refer to the Special Policy on Cumulative Impact (SPCI) contained within the Council's Statement of Licensing Policy (SoLP).

This premises falls within the Licensing Authority's Cumulative Impact Area (CIZ), which was adopted to give greater power to control the number of licensed premises within the city's centre. The SPCI was introduced because the Licensing Authority determined that the concentration of licensed premises and the subsequent numbers of people drawn into the city centre is causing exceptional problems of crime and disorder and public nuisance.

The effect of the SPCI is that applications for new premises licences, which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. The applicant can rebut this presumption of refusal if they can show that their application will have no negative cumulative impact on licensing objectives, including prevention of crime and disorder and public nuisance.

The Licensing Authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its SPCI in the light of the individual circumstances of the case.

On 14 March 2024, I visited the premises to carry out an inspection. At the time of this visit, I spoke to the member of staff who advised me that he had worked at the premises for approximately three weeks. He confirmed that he did not know who the owner of the premises was and had never met him.

I noted that the premises were selling tobacco and nicotine inhaling products. Under the 'Children and Young Persons (Protection from Tobacco) Act 1991' it is a legal requirement to display an A3 size notice stating that "It is illegal to sell tobacco products to anyone under the age of 18". There was no signage on display. The premises also did not have a refusal register or any training records. The staff member confirmed that he had not received any training.

He informed me that the premises had been open for approximately three months. The premises had not submitted food registration form despite being sent to the premises by the Environment Health Food Team to complete. Also, at the time of my visit I left a form for completion and stamped addressed envelope to assist returning. I can confirm that to date a food registration form had not been received. A food business is required by law to register 28 days before trading.

Also, at the time of my visit, displayed in the window and also inside the premises was a number of drug paraphernalia items for sale which included crack pipes, grinders, bong, small digital scales, ziplock bags etc.

A letter sent to the owner of the premises outlining the issues found. A copy of this letter is attached as Appendix A.

On 17 January 2024, colleagues from Trading Standards also carried out a visit to the premises as part of a vape project, carrying out inspections to check for overcapacity and non-compliant vapes. At the time of this visit they found overcapacity vape and illicit tobacco concealed in a paper towel dispenser to evade detection. These items were seized, and enforcement action is pending. A copy of the statement written following this visit is attached as Appendix B.

The Council's Statement of Licensing Policy also 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.

In regard to the Matrix policy, I can again not see any offered exceptional circumstances for departing from the Matrix policy, where it clearly indicates that an 'Off licence' is a 'No' within the CIZ. The Licensing Team contend that the Matrix policy relates to both new and variation applications. Again, the Matrix policy can be departed from where exceptional circumstances are demonstrated, but the applicant has failed to address this.

When considering whether representations should be submitted, the Licensing Team have regard to the 'Public Health Framework for assessing Alcohol Licensing' – (accessed at <https://public.tableau.com/app/profile/brightonhovepublichealthintelligence/viz/PublicHealthFrameworkforAssessingAlcoholLicensing/NavigationPage> document. The premises sits within the electoral ward of West Hill & North Laine.

We make this representation to uphold our Statement of Licensing policy. The Policy is predicated on too much alcohol being available and applications for new premises licences will be refused unless the applicant can demonstrate exceptional circumstances. It is up to the applicant to demonstrate this and satisfy a Licensing Panel that they will not impact negatively on the CIZ.

Granting this application is likely to add additional burdens and problems to the already challenging area and although the applicant has put a number of provisions in their operating schedule, I do not believe that the applicant has demonstrated that there are exceptional circumstances to justify departing from the Policy. I therefore request this application is refused in line with 3.1.6 of our Statement of Licensing Policy.

Yours sincerely

REDACTED

Donna Lynsdale
Licensing and Fair Trading Officer
Licensing Team and Trading Standards

Appendix A – Copy of letter sent on 18 March 2023

Appendix B – Copy of Witness Statement - FB Statement 17-1-24 LEYA MARKET

Licensing and Trading and Standards Appendix A

Leya Market	Date:	18 March 2024
28 Queens Road	Our Ref:	2024/00265/UAGESA
Brighton	Phone:	01273 292494
BN1 3XA	Email:	donna.lynsdale@brighton-hove.gov.uk

Dear REDACTED

SC CON ENDS 03.04.2024 VALID PCD, PPN, PCH & CIZ. (B)

Leya Market, 28 Queens Road, Brighton BN1 3XA

I am writing to you as the owner of the above premises.

On 14 March 2024, I visited the premises to carry out an inspection. At the time of my visit, I spoke with REDACTED.

During this inspection I noted that you were selling tobacco and nicotine inhaling products. Under the 'Children and Young Persons (Protection from Tobacco) Act 1991' it is a legal requirement to display an A3 size notice stating that "It is illegal to sell tobacco products to anyone under the age of 18". There was no signage on display. The premises also did not have a refusal register or any training records. REDACTED confirmed that he had not received any training.

Prior to my visit, I was informed by our Environmental Health Food Team they had sent to the premises a food registration form for completion. You are legally required to register any premises used to prepare, store, transport or sell food. You should have done this at least 28 days before trading. I left a copy of a food registration form and a stamped addressed envelope to return. Please ensure that this form is completed and returned as a matter of priority.

Also, at the time of our visit, you had a number of drug paraphernalia items displayed in the window and also inside the premises for sale. These items included crack pipes, grinders,

bongs, small digital scales, ziplock bags etc. Below is some guidance regarding selling these kinds of items:

Supplying Paraphernalia

It is a criminal offence to supply or offer to supply an object for providing or preparing a controlled drug. The maximum sentence is 6 months imprisonment and/or a fine up to level 5.

The offence will be committed if all of the following things happen:

- An object is supplied or offered to be supplied.
- The object could be used or changed to be used (either by itself or together with another object or objects) to provide a controlled drug.
- The person supplying or offering to supply the object believed that it would be used by any person to give the drug to themselves or another person.
- The provision of the drug would be illegal (certain people such as doctors and dentists are legally allowed to provide drugs).

Objects such as crack pipes, grinders, spoons, bongs and tourniquets could fall within this prohibition.

I have posted to the premises a Tobacco Notice, Refusal Register and Training Book.

A copy of this letter has also been sent to Sussex Police.

If you have any questions relating to the content of this letter, please contact via email.

Yours sincerely
REDACTED

Donna Lynsdale

Licensing and Fair-Trading Officer

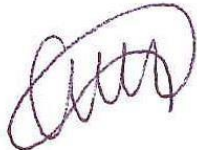
Licensing Team and Trading Standards

cc. Sussex Police via email

Licensing and Trading and Standards Appendix B

STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 16.2;
Criminal Justice Act 1967, s. 9)*



STATEMENT OF Felicity Broder

Age of witness (if over 18, enter "over 18"): Over 18

This statement (consisting of 2 pages) **is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.**

My name is Felicity BRODER and I am a Trading Standards Officers with Brighton and Hove City Council Trading Standards department. On the 17 January 2024 at 1415 I entered LEYA MARKET, 28 QUEENS ROAD, BRIGHTON, BN1 3XA with Fair Trading Officer Ben FRENCH and Fair Trading Officer Rebecca CASEY. This was part of a vape project, carrying out inspections to check for over capacity and non-compliant vapes. There was a female on the premises who introduced herself as REDACTED, however I now know to be REDACTED.

We introduced ourselves and explained the purpose of our visit. I then went behind the counter and found several packets of illicit tobacco and overcapacity vapes. Due to there now being breaches of the legislation I showed REDACTED the Code B notice and explained what our powers are and that we would be seizing any non-compliant items that we find.

FTO FRENCH AND FTO CASEY went down into the basement of the premises and reported to me that it appeared like someone was either

sleeping or living down there with luggage being stored. I then went to check the basement and if there were any means of escape. The fire escape appeared to be blocked so I decided to make a referral to East Sussex Fire and Rescue Service.

The following items were found during the inspection, some of which were hidden in a paper towel dispenser to evade detection. I attach a photo of this hide as exhibit FJB/LV17/08.

X10 PACKETS OF MAYFAIR X10

PACKETS OF RICHMOND

X22 PACKETS OF MARLBORO GOLD X2

PACKETS OF AMBER LEAF

X11 PACKETS OF CUTTERS CHOICE X4

PACKETS OF MARLBORO RED X20 PAKCETS

OF MARLBORO TOUCH X6 PACKETS OF B & H

X21 SKE VAPES

X52 R AND M VAPES

Also found was paperwork addressed to H Rhythm Ltd behind the counter.

And were placed in tamperproof evidence bags by FTO CASEY and marked as Exhibits FJB/LV17/02, FJB/LV17/03, FJB/LV17/04, FJB/LV17/05, FJB/LV17/06 and FJB/LV17/07. FTO CASEY completed the seizure list and I marked this as exhibit FJB/LV17/01. At 1515 we completed the inspection and I provided the seizure list and Code B notice to REDACTED.

The seized items were then taken straight to the secure evidence store and BRIGHTON TOWN HALL, BARTHOLOMEW SQUARE, BRIGHTON.

Signed: REDACTED

Date: 22/01/24

(To be completed if applicable: being unable to read the above statement I,of, read it to him/her before he/she signed it.

Signed:

Date.....)