

Licensing Panel (Licensing Act 2003 Functions)

Date: **31 August 2023**

Time: **10.00am**

Venue **Virtual**

Members: Lyons, Nann and Robinson

Contact: **Thomas Bald**
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AGENDA

1 TO APPOINT A CHAIR FOR THE MEETING

WELCOME & INTRODUCTIONS

2 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.

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(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.

3 MOLLY MALONES LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

7 - 70

Contact Officer: Charles Boufrahi
Ward Affected: Regency

Date of Publication - Wednesday, 23 August 2023

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Licensing Panel (Licensing Act 2003 Functions)

Brighton & Hove City Council

Subject:	Application for a Variation of a Premises Licence under the Licensing Act 2003		
Premises:	Molly Malones 57 West Street Brighton BN1 2RA		
Applicant:	Indigo Leisure Limited		
Date of Meeting:	31st August 2023		
Report of:	Executive Director of Housing, Neighbourhoods & Communities		
Contact Officer:	Name:	Corinne Hardcastle	Tel: (01273) 292100
	Email:	corinne.hardcastle@brighton-hove.gov.uk	
Ward(s) affected:	Regency		

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 Molly Malones.

2. RECOMMENDATIONS:

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

3. CONTEXT/BACKGROUND INFORMATION & CONSULTATION

- 3.1.1 The application is for a Variation of a Premises Licence under the Licensing Act 2003. The application proposes:

The deletion from Annex 3B of the Premises Licence the following conditions:
1, 5 and 6

And to amend the wording of Condition 7 as follows:

New premises management staff are required to attend an internal safeguarding course within 6 weeks of commencing their work duties. All other staff are required to complete internal safeguarding training before commencing work duties as part of their induction. Internal refresher training, for all staff, to be undertaken at regular intervals of no more than six months. Copies of the internal training attendance and refresher training records shall be retained at the premises and shall be available to the Police or Licensing Authority upon request.

- 3.2 Part M of the application is detailed at Appendix A

3.3 Summary table of **existing** activities

	Existing – No Proposed Changes to Hours
Live music	Every day: 10:00 – 04:00 Indoors
Recorded Music	Monday to Saturday: 10:00 – 04:00 Sunday: 12:00 – 04:00 Indoors
Dancing	Every day: 10:00 – 04:00 Indoors
Late Night Refreshment	Every day: 23:00 – 04:00 Indoors
Supply of Alcohol	Monday to Saturday: 10:00 – 04:00 Sunday: 12:00 – 04:00 On the Premises
Hours premises are open to public	Every Day: 10:00 – 05:00

<p>Conditions removed as a consequence of the proposed Variation</p>	<p>The deletion from Annex 3B of the Premises Licence of the following conditions:</p> <p>1 - From midnight each day the premises shall operate as a dedicated and bona fides (non-DJ) live music venue and/or associated staged cabaret space. The sale of alcohol shall be ancillary to the provision of and / or presentation of live music and/or cabaret events. At these premises live music will not include DJ presentations. For the avoidance of doubt the sale of alcohol shall end at the conclusion of the programmed live music and/or cabaret entertainment. Save in genuinely exceptional circumstances (for example, but not limited to, a failure of performer/s to attend) of which there can be no more than 21 occasions per calendar year. A record of each exemption and the reason for it shall be retained at the premises and shall be available for inspection by the licensing authority and the police on request.</p> <p>5. The premises shall install a recognised electronic identification scanning system for customers entering the premises. The system shall be operated from 22:00 and all persons who appear to be under 30 entering the premises will be scanned. The system should have the ability to share alerts with other venues using similar ID scanning equipment, identify the hologram of an ID and read both Passports and IDcards, including PASS cards. The system should be able to conduct tests to determine if a document is genuine or counterfeit. The system must be compliant with the Information Commissioner's good practice guidance for ID scanning in clubs and bars.</p> <p>Entry to customers who appear to be under the age of 30, without ID, shall be risk assessed and admitted to the venue on the discretion of the door entry team on duty. The name, date of birth, of these customers shall be recorded and a photographic image obtained. This information shall be made available to the police or licensing authority on request.</p> <p>6. The premises will adopt and operate a daily last entry time of 2:30am.</p> <p>and to amend the wording of Condition 7 as follows:</p> <p>New premises management staff are required to attend an internal safeguarding course within 6 weeks of commencing their work duties. All other staff are required to complete internal safeguarding training before commencing work duties as part of their induction. Internal refresher training, for all staff, to be undertaken at regular intervals of no more than six months. Copies of the internal training attendance and refresher training records shall be retained at the premises and shall be available to the Police or Licensing Authority upon request.</p>
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- 3.4 Existing licence attached at Appendix B
- 3.5 The premises falls within the Cumulative Impact Area (“The Area”) (see paragraphs 3.1 – 3.1.10).

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 2 representations were received. They were received from Sussex Police and the Licensing Authority
- 3.8 Representations received had concerns relating to Prevention of Crime and Disorder, Cumulative Impact, Public Safety and Protection of Children from Harm.
- 3.9 Full details of the representations, Licensing Panel decision dated 3 August 2021 and Approved Consent Order from Brighton Magistrates’ Court dated 3 May 2022 are attached at Appendix C. A map detailing the location of the premises is attached at Appendix D.
- 3.10 Applicant’s submission dated 13.07.23 is attached at Appendix E.
- 3.11 Responsible Authorities response to applicant’s submission dated 31.07.23 is attached at Appendix F.
- 3.12 Applicant’s response to Responsible Authorities dated 01.08.23 is attached at Appendix G.

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. This policy takes effect from the 4th February 2021. 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) the prevention of crime and disorder.
- (b) public safety.
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

1.3 Scope

1.3.1 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

3.1 Cumulative impact

3.1.1 The licensing authority may receive representations from either a responsible authority or other persons that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is therefore a matter for the market to decide and can, in some circumstances, be a matter for planning consideration; need therefore, does not form part of this licensing policy statement.

3.1.2 **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.

3.1.3 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. The first Special Policy incorporating a Cumulative Impact Zone (CIZ) and Special Stress Areas (SSA's) was adopted in March 2008. Since that date, the licensing

authority has kept the CIZ and SSA's under review. On 15 December 2011 Full Council resolved to expand the CIZ and the special stress area, covering 1.5% of the administrative area of Brighton & Hove City Council. On 20th November 2014 Licensing Committee resolved to confirm the current CIZ and SSA as defined in the current Statement of Licensing Policy. On the 29th November 2018 Licensing Committee resolved to expand the SSA into Central Hove. It is now proposed to expand the SSA into Preston Road and Beaconsfield Road. The licensing authority has published a Cumulative Impact Assessment which can be found at Appendix E.

3.1.4 This special policy will refer to a Cumulative Impact Zone ("the CIZ") in the Brighton city centre, a detailed plan of which is shown below.

Cumulative Impact Zone, January 2021



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3.1.5 The Cumulative Impact Zone comprises the area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Holland Road to the junction with the west side of Dyke Road at its eastern end; from there, north-east to the junction of the north side of Air Street with the west side of Queens Road and then northward to the north-west corner of Surrey Street junction with Queens Road; thence along the north side of Trafalgar Street eastwards to its junction with York Place and continuing south-east across to Grand Parade, then south to the junction of Edward Street; along the north side of Edward Street to the east side of its junction with Egremont Place and southward along the eastern sides of Upper Rock Gardens and Lower Rock Gardens; southward to the mean water mark and following the mean water line westward to a point due south of the west boundary of Holland Road; northward to that point and along the west side of Holland Road to its northwest boundary and then diagonally across Western Road to its intersection with the west side of Holland Road.

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.

3.1.8 The presumption of refusal does not relieve responsible authorities or other persons of the need to make a relevant representation. If there are no representations, the licensing authority must grant the application in terms consistent with the operating schedule submitted.

3.1.9 Furthermore, this special policy is not absolute. Upon receipt of a 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 in the light of the individual circumstances of the case. If an application is unlikely to add to the cumulative impact of the area, it may be granted. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant, theatre or live music venue (where alcohol is not the primary activity) may be considered exceptional circumstances. The fact that a premises will be/is exceptionally well managed with a well-qualified applicant, or that there are no residential premises nearby, will not be considered exceptional.

3.1.10 If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that conditions would be ineffective in preventing the problems involved.

3.2.3 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.

3.2.4 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.

3.2.5 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	Other Areas
Restaurant	Yes (midnight)	Yes (midnight)	Yes (midnight)
Café	Yes (10 pm)	Yes (10 pm)	Yes (10 pm)
Late Night Takeaways	No	Yes (midnight)	Yes (midnight)
Night Club	No	No	No
Pub	No	Yes (11pm)	Yes (midnight)
Non-alcohol lead (e.g. Theatre)	Yes (favourable)	Yes (favourable)	Yes (favourable)
Off-licence	No	No	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

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 cafes, 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 on our website www.brighton-hove.gov.uk/licensingact.
- 8) In an area where there are already several existing off-licences or where the premises is situated within a parade with another off licence 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 or restrictions placed on the terminal hour to reflect opening hours of other shops.
- 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.
- 10) Non-alcohol led category does not include "alcohol in shared workplaces". It is recommended that sale of alcohol in shared workspaces should have a terminal hour of no later than 10pm. For further advice and guidance on "alcohol in shared

workplaces” please see paragraph 3.3.4-3.3.6.

3.6 Street drinking

3.6.1 The Licensing Authority will have regard to areas highlighted by Sussex Police that are at risk from alcohol related anti-social behaviour. The nature of these areas can be fluid/seasonal and so updated maps and data will be produced regularly to ensure the information is current. 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.

3.9 Promoters and irresponsible drinks promotions

3.9.1 The Licensing Act 2003 makes no mention or provision for the use of promoters within licensed premises. Many of the late night bars and clubs within the Brighton & Hove Cumulative Impact Zone regularly hire promoters to sell nights at their venues. In recent years with the introduction of promoters within the Brighton night time economy, several issues have arisen. This includes promoters vouching for underage customers to get them inside licensed premises where they can access alcohol, providing flyers to passers-by who throw them on the floor and irresponsible promotions for their nights. Many premises now have an agreement with their promoter for acceptable promotions and behaviour which includes the signing of a written contract of expectations. This shows premises evidencing their due diligence and ensures that promotion companies know what is expected of them. The contract could include, obligations to pick up self-generated litter, verification of ages of their customers and users of their social media, promoters being over the age of 18 and responsible advertising on social media.

3.9.2 The Licensing Authority expect licensed premises to develop staff policy and training on recognising signs of drunkenness and vulnerability, for example, offering drinking water and tips for refusing customers who appear drunk. And discourage company policies that promote bonuses and sales incentives for selling alcohol. Licensing Authority will expect necessary precautionary processes to restrict drunkenness, e.g. Licensing Guidance states happy hours should not be designed to encourage individuals to drink excessively or rapidly.

4 Prevention of Crime and Disorder

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.

4.1.1 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.

- 4.1.2 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.
- 4.1.3 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.
- 4.1.4 Measures put in place should support the intentions of Operation Marble (police operational order), which aims to prevent incidents of crime and disorder within the night time economy, at weekends. Operation Marble operates with a view to minimising the risk to the public of being a victim of public place violent crime; to reduce incidents of violent crime and public disorder within the city centre; to deal positively with offences and offenders; to secure and preserve evidence which will assist in the prosecution of offenders and to support the night time economy and the responsibly run businesses within it.

4.2 Sussex Police

4.2.1 Sussex Police have a specific Operation relating to the night time economy called Operation Marble (detailed in 3.4.1) and work closely with partners to ensure a safe and vibrant city centre. There continues to be an increasing demand for resources further into the early hours of the morning with the highest concentration of crimes occurring between 21:00 and 06:00 on a Friday into a Saturday and between 20:00 and 06:00 on a Saturday night into a Sunday. The data set used shows that up to 80% of arrests made in the timeframe 20:00 – 06:00 on these days were affected by alcohol. For full details of these statistics see the Cumulative Impact Assessment at Appendix E.

4.2.2 The dealing and use of drugs remains an issue across the city and Sussex Police welcome proactive policies from licensed premises. A drug safe and seizure recording initiative is in place of which further details can be obtained by contacting Brighton & Hove Police Licensing (brighton.licensing@sussex.pnn.police.uk). This initiative encourages licensed premises with Door Supervisors to search and seize drugs from persons attempting to enter their premises and ensures that once drugs are removed from persons, they can be safely collected and destroyed by Sussex Police.

4.2.3 Dispersal from the city centre during the late evening and early morning remains a policing challenge. Over recent years, there has been a proliferation of off-licences and late night refreshment venues along the city's arterial routes. This has led to incident 'hot spots' where patrons from the night time economy continue to interact, albeit away from any safety measures afforded by on-licences. As such, Sussex Police support the Council's Special Policy in offering guidance to both applicants and the Licensing Committee in relation to off-licences and late night refreshment licences.

4.2.4 Sussex Police have continuing concerns that, despite staff training in age-restricted sales, under age individuals are still being served alcohol both on and off the premises in some of the city's licensed premises. As such, regular intelligence-led 'test-purchase' operations are conducted to highlight premises where sales are taking place and ensure appropriate enforcement action is taken to prevent further sales. The introduction of identification scanning machines at premises throughout the city has proved successful in mitigating some risk, but operators must maintain vigilance regarding the fraudulent use of genuine IDs. Sussex Police continue to work alongside the Business Crime Reduction Partnership to tackle the problem of those who use false or another's identification to enter licensed premises and purchase alcohol.

4.2.5 Sussex Police work closely with venues and other organisations within the city to protect vulnerable people from becoming victims of crime. As well as work to prevent under age sales, vulnerability training is offered to identify persons who may have been made vulnerable through alcohol or drugs. Sussex Police also support initiatives such as (but not limited to) safe spaces, mobile teams of volunteers actively checking people's well-being and the Beach Patrol.

4.2.6 Public Space Protection Orders have proved an effective tool for Sussex Police in targeting enforcement action in problem areas of the city. It 'allows Police Officers and Police Community Support Officers to remove alcohol from any person in a public place if that person is involved in anti-social behaviour (ASB) or the officer believes that by having alcohol in their possession there is an increased risk of ASB. It is an offence to refuse to hand over alcohol when required to do so.' They have been particularly effective in the day time economy where members of the street community are causing ASB issues for members of the public and local businesses, especially during the summer months where there is a large influx of visitors to Brighton & Hove.

4.2.7 Policing the night time economy continues to provide a challenge and in the climate of limited resources and newly emerging problems, Sussex Police support maintaining the council's Special Policy which defines cumulative impact and special stress and will continue to take enforcement action where appropriate if the actions of a Premises Licence Holder, Designated Premises Supervisor, Door Supervisors or Staff have fallen below the high standard expected across the city. Sussex Police also recognise and support businesses which are aware of their social responsibilities and as such, actively contribute towards keeping Brighton & Hove a safe and enjoyable city.

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 Industry 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. This policy endorses the use of units following such guidance and standards in appropriate circumstances.

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.

4.3.6 Enforcement will be achieved by the enforcement policy appended (Appendix B).

5 Public Safety

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.

5.1.1 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special

provisions set out in section 177 of the 2003 Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.

5.1.2 Normally in the city centre, pubs and clubs will be expected to operate using polycarbonate or toughened/shatterproof glass.

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.
- (b) use of shatterproof drinking vessels; bottles requiring use of toughened glass or plastic should normally be required unless applicants can show exceptional reasons.
- (c) use of door supervisors, licensed by the Security Industry Authority.
- (d) requirement of a minimum of a licensed door supervisor for every 100 customers in nightclubs and large city centre pubs or as indicated by risk assessment.
- (e) occupant capacity conditions will be applied where appropriate.
- (f) the provision of designated and suitably trained first aiders.

7 Protection of Children from Harm

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, eg 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).

7.1.1 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 (eg passport, photo driving licence or pass card).

7.1.2 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 7.1.4 below.

7.1.3 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

7.1.4 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.

The “What to do” booklet is a national one and can be accessed at:

www.brightonandhovelscb.org.uk/wp-content/uploads/What-to-do-if-a-child-is-being-abused.pdf

Probably also worth getting him to put in that if you are concerned about a child locally to contact the Multi-Agency Safeguarding Hub (MASH) on 01273 290400, or you can contact Sussex Police on 101. If they think a child is in immediate danger to dial 999.

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

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

8 Integration of Strategies

8.1.1 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

8.1.2 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.

8.1.3 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.

8.1.4 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.

8.1.5 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.

8.1.6 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.

8.3 Enforcement

8.3.1 The Enforcement of licensing law and inspection of licensed premises is detailed in the Protocol between Sussex Police, the East Sussex Fire & Rescue Service and Brighton & Hove City Council. This protocol reflects the need for more efficient deployment of Police and Local Authority staff commonly engaged in licensing enforcement and can be found at Appendix D (Lead Agency Status) of the Statement of Licensing Policy. In addition, the Licensing Authority will have regard to its published Licensing Enforcement Policy in making enforcement decisions in accordance with Brighton & Hove City Council's Statement of Licensing Policy (Appendix B). In order to better target enforcement resources, inspections will be undertaken outside of normal office hours and the sharing of information between all enforcement agencies will be encouraged through joint meetings or similar arrangements.

8.3.2 Attention is drawn to the targeting of agreed problem and high risk premises requiring greater attention as identified in the protocol. A number of other council and government policies, strategies and guidance documents must be taken into account to complement the policy, including:

- Community Safety & Crime Reduction Strategy
- Drugs and alcohol strategies – local alcohol harm reduction strategy
- Objectives of the Security Industry Authority
- The Anti-Social Behaviour Act 2003/ASBPC Act 2014
- The Health Act 2006
- The Violent Crime Reduction Act 2006
- Policing and Crime Act 2009

10 Live Music, Dancing & Theatre

10.1.1 This policy recognises the need to encourage live music, dancing and theatre for the wider cultural benefits of the community generally. In addressing such issues the potential for limited disturbance in neighbourhoods will always be carefully balanced with these wider benefits, particularly for children. The impact of licensing on regulated entertainment, particularly live music and dancing, will be monitored. Where indications are that such events are being deterred by licensing requirements, the policy will be revisited with a view to investigating how such situations might be reversed.

10.1.2 The Licensing Committee represents the general interests of a community in determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives. All members of the Licensing Committee will be trained on Licensing Act 2003 and S182 Guidance. The Licensing authority is aware of the need to avoid measures which deter live music, dancing and theatre - such as imposing indirect costs out of proportion to the income of the licence holder and to the risks presented. Only appropriate, proportionate and reasonable licensing conditions should impose any restrictions on such events.

10.1.3 The licensing committee will support the cultural zones, outdoor eating areas, food led operations, community pubs, live entertainment and protect living conditions in mixed use areas.

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 'Night Safe' 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 Michael Bentley

Date: 18/08/23

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: 17/08/23

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 – Part M of the Application
2. Appendix B – Part A of Premises Licence
3. Appendix C – Representations, Licensing Panel decision dated 3 August 2021 and Approved Consent Order from Brighton Magistrates' Court dated 3 May 2022

4. Appendix D – Map of area
5. Appendix E – Applicant’s submission document dated 13.07.23 and timeline and bundle e-mail exchanges with Sussex Police dated 24.07.23
6. Appendix F - Responsible Authorities response to applicant’s submission dated 31.07.23.
7. Appendix G.- Applicant’s response to Responsible Authorities response dated 01.08.23.

Documents in Members’ Rooms

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2021.

Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003, July 2023.

Public Health Framework for Assessing Alcohol Licensing – January 2022.

Background Documents

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2021.

Appendix A

M

Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

(a) General - all four licensing objectives (b, c, d and e) (please read guidance note 11)

(b) The prevention of crime and disorder

(c) Public safety

(d) The prevention of public nuisance

(e) The protection of children from harm



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Appendix B Part A

Regulation 33, 34

Premises Licence Brighton and Hove City Council

Premises Licence Number

1445/3/2021/02179/LAREV

Part 1 – Premises Details

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

Molly Malones
57 West Street
Brighton
BN1 2RA

Licensable activities authorised by the licence

Performance of Live Music
Performance of Recorded Music
Late Night Refreshment
Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities

Performance of Live Music - Indoors
Monday - Sunday: 10.00 - 04.00 hrs

Performance of Recorded Music - Indoors
Monday - Saturday: 10.00 - 04.00 hrs
Sunday: 12.00 - 04.00 hrs

Late Night Refreshment - Indoors
Monday - Sunday: 23.00 - 04.00 hrs



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Sale by Retail of Alcohol

Monday - Saturday: 10.00 - 04.00 hrs

Sunday: 12.00 - 04.00 hrs

For all of the above activities: On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

The opening hours of the premises

Monday - Sunday: 10.00 - 05.00 hrs

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

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

Alcohol is supplied for consumption both on and off the Premises.



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Part 2

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

Indigo Leisure Limited
63 Western Road
Hove
BN3 1JD

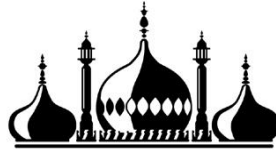
Registered number of holder, for example company number, charity number (where applicable)

Registered Business Number 03808062

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol
REDACTED TEXT

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

REDACTED TEXT



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Annex 1 – Mandatory conditions

S19; 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
3. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of



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24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

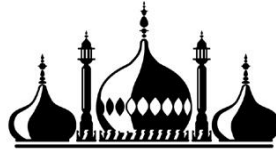
(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

(e) dispensing directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
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.
6. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;



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- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

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—

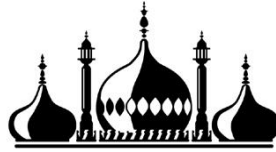
$$P=D+(D\times V)$$

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,



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(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

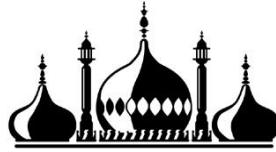
(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

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.

S 21: mandatory condition: door supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:
 - a) Be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001: or
 - b) Be entitled to carry out that activity by virtue of section 4 of the Act.
2. But nothing in subsection (1) requires such a condition to be imposed:



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- a) In respect of premises within paragraph 8 (3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films): or
 - b) In respect of premises in relation to:
 - I. Any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence) or
 - II. any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section:
- a) "Security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for purposes of that Act, (see Section 3(2) of that Act) and
 - b) Paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Annex 2 – Conditions consistent with the Operating Schedule

For the Prevention of Crime and Disorder:

1. Suitable illumination will be provided to the exterior areas of the building.
2. A minimum of 3 SIA Door Supervisors will be on duty when one or two floors are being used on Friday, Saturday and Public Holidays from 20:00.
3. A Door supervisor will be placed on the outside of each exit door of the premises from 20:00 on Friday, Saturday and Public Holidays until all members of the public have left the premises.
4. Where possible one of the SIA door supervisors will be female.



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5. Whilst SIA door supervisors are on duty they will check the premises every half an hour. A record of these checks will be kept at the premises. This will include the outside area.
6. The licensee will ensure that prominent, clear and legible notices are displayed at the exit to the outside area notifying the public that no drinks are to be taken outside after 21:00.
7. A designated glass collector will be employed for each floor that is open to the public to collect glasses after 20:00 on Friday, Saturday and Public Holidays.

For Public Safety:

8. Where practicable all drinking receptacles shall be made from shatterproof material.

For the Prevention of Public Nuisance:

9. Staff will organise taxis for customers when required to take them from the premises.
10. Customers will be seen off the premises when appropriate and encouraged to disperse from outside the building in a quiet and orderly manner.
11. No music will be played in the outside area.
12. External doors will be closed at 12:00 (Midnight) Sunday to Thursday and 03:00 Friday and Saturday (and Public Holidays) save to gain access to or egress from the premises.
13. Internal doors will be closed at 12:00 (Midnight) Sunday to Thursday and 03:00 Friday and Saturday (and Public Holidays) save to gain access and or egress from the Lower or Ground floor.
14. Windows will be kept closed from 12:00 (Midnight) Sunday to Thursday and 03:00 Friday and Saturday (and Public Holidays).
15. The licensee shall ensure that prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.

For the Protection of Children from Harm:



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16. Children, under the age of 18, will be permitted to enter the premises between the hours of 12:00 and 18:00 whilst under the supervision of an adult. No children will be admitted to the premises at any other time.

Annex 3 – Conditions attached after a hearing by the licensing authority on 27th October 2008:
(both conditions deleted as a consequence of MV reference:2021/00151/LAPRMV)

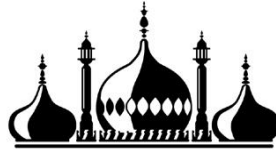
Annex 3a – Conditions attached after a hearing by the licensing authority on 12th November 2014 to determine a Review hearing:

1. The premises licence holder /management will have in place a written operations manual detailing policies, risk assessments and training specific to the premises, details of which have been inspected by Sussex Police and approved by them and the Licensing Authority. The operations manual acknowledges the good practice and both legal and social responsibilities of the licence holder and will document the management structure and all training carried out. It will also identify the controls necessary to promote the protection of children from harm and will include what considerations have been made for both normal day to day activities and any special events or functions which may arise during the year including public holidays, when seasonal variations are taking place and other city wide events e.g: Pride. This operations manual will be reviewed every 12 months or sooner should the need arise and a copy shall be retained at the premises and available for inspection by the Police and the Licensing Authority, upon request. Any major change intended to this manual shall be approved by Sussex Police and the Licensing Authority before being taken into use.
2. Licence holders and staff must monitor customer behaviour for breaches of these policies and undertake regular inspections of the sections of the premises not visible to the bar area e.g: the toilets.
3. During times when SIA door staff are employed at the venue, premises inspections will be hourly and include the toilets and the smoking area. They will be recorded in writing in the incident book.
4. 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 only forms of ID that will be accepted are passports, driving licences with a photograph of 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.



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5. Signage advertising the “Challenge 25” policy will be displayed in prominent locations in the premises.
6. 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 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.
 - 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 and remedied as soon as practicable.
7. SIA Licenced Door Supervisors shall be employed on any other occasions when a requirement is identified by the licence holder’s written risk assessment or requested by Sussex Police in writing at least 7 days in advance. Further, as part of this written risk assessment the premises licence holder will consult with Sussex Police and take into consideration their advice regarding the following: Public holidays, when seasonal variations are taking place and other city wide events e.g: Pride. This written risk assessment will be reviewed every 12 months or sooner should the need arise and a copy shall be retained at the premises.
8. The premises will become a member of the BCRP or similar scheme approved by the Licensing Authority that operates with radios and uses the Nightsafe and Yellow Card Scheme or similar reporting scheme.
9. An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The incident log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week. The log book should be kept



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on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence.

10. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive the following training in age-restricted sales and drunkenness:
 - The premises licence holder will ensure that all staff members engaged in selling alcohol on the premises shall receive induction training as to the lawful selling of age-restricted products and not serving a drunk prior to the selling of such products, and verbal reinforcement / refresher training thereafter at intervals not to exceed 8 weeks with the date and time of the verbal reinforcement/refresher training documented.
 - All age-restricted sales and preventing serving an intoxicated person 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 and Hove Trading Standards upon request.
 - All staff are to receive training in line with that detailed in the operations manual of condition 1.
11. The premises shall at all times maintain and operate a refusals recording system and an incident log (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 trading standards.

Annex 3b - Conditions attached after a hearing on 3rd August 2021 by the Licensing Authority to determine a Review application and subsequent Consent Order following appeal on 3rd May 2022:

1. From midnight each day the premises shall operate as a dedicated and bona fides (non-DJ) live music venue and/or associated staged cabaret space. The sale of alcohol shall be ancillary to the provision of and /or presentation of live music and/or cabaret events. At these premises live music will not include DJ presentations. For the avoidance of doubt the sale of alcohol shall end at the conclusion of the programmed live music and/or cabaret entertainment. Save in genuinely exceptional circumstances (for example, but not limited to, a failure of performer/s to attend) of which there can be no more than 21 occasions per calendar year. A record of each exemption and the reason for it shall be retained at the premises and shall be available for inspection by the licensing authority and the police on request.



Brighton & Hove City Council

2. The premises will operate with a minimum of two managers, an operational manager and a general manager, one of whom will be the DPS. Each manager will be contracted to work for a minimum of three evenings per week. On occasions when the managers are not working a shift manager will be on duty. All managers must hold a personal licence.
3. A premises Manager and the Area Manager (or in exceptional circumstances her nominated representative) shall attend the quarterly scheduled meetings of the BCRP (or similar successor body).
4. A minimum of One SIA Door Supervisor will be on duty when one or two floors are being used from Sunday to Thursday from 22:00.
5. The premises shall install a recognised electronic identification scanning system for customers entering the premises. The system shall be operated from 22:00 and all persons who appear to be under 30 entering the premises will be scanned. The system should have the ability to share alerts with other venues using similar ID scanning equipment, identify the hologram of an ID and read both Passports and ID cards, including PASS cards. The system should be able to conduct tests to determine if a document is genuine or counterfeit. The system must be compliant with the Information Commissioner's good practice guidance for ID scanning in clubs and bars.

Entry to customers who appear to be under the age of 30, without ID, shall be risk assessed and admitted to the venue on the discretion of the door entry team on duty. The name, date of birth, of these customers shall be recorded and a photographic image obtained. This information shall be made available to the police or licensing authority on request.

6. The premises will adopt and operate a daily last entry time of 2:30am.
7. Within 21 days of reopening all premises management staff are required to attend an external safeguarding course. New premises management staff are required to attend an external safeguarding course within 6 weeks of commencing their work duties. All other staff are required to complete internal safeguarding training before commencing work duties as part of their induction. Internal refresher training, for all staff, to be undertaken at regular intervals of no more than six months. Copies of the external training attendance and refresher training records shall be retained at the premises and shall be available to the Police or Licensing Authority upon request.



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8. The Premises shall have in place a written comprehensive safeguarding policy which shall also include a copy of the internal staff training. This policy shall be kept under review and kept updated as needed. The safeguarding policy shall have regard to the most current Brighton & Hove Statement of Licensing Policy and the Night-time Economy Safeguarding Initiatives. A copy of the safeguarding policy shall be retained at the premises and shall be available for inspection by the Licensing Authority and the Police upon request.

Appendix C

REP A

CH CON ENDS 10.07.2023 VALID PCD, PCH, CIZ & PS



Sussex Police
Serving Sussex

www.sussex.police.uk

Sussex Police Headquarters

Malling House,
Church Lane, Lewes,
E. Sussex,
BN7 2DZ

Telephone: 101 | 01273 470101

Email: brighton.licensing@sussex.pnn.police.uk

Police Station
John Street
Brighton
BN2 0LA

27th June 2023

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

Dear Corinne Hardcastle,

RE: APPLICATION FOR A VARIATION OF THE PREMISES LICENCE FOR MOLLY MALONES, 57 WEST STREET, BRIGHTON, EAST SUSSEX, BN1 2RA UNDER THE LICENSING ACT 2003. 1445/3/2023/02214/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 that it will undermine the Licensing Objectives of the prevention of crime and disorder, protection of children from harm and public safety. We also make reference to the Brighton & Hove City Council (BHCC) Statement of Licensing Policy (revised January 2021) and the Revised Guidance issued under section 182 of the Licensing Act 2003 (December 2022).

This is a proposed variation application in an area of the City which is subject to a Special Policy adopted by Brighton & Hove City Council. The premises lies in the Cumulative Impact Zone (CIZ) (as defined in the BHCC Statement of Licensing Policy) and seeks to amend the conditions that were placed on the licence by a Consent Order following a Section 53a Review of the premises licence in July 2021. These conditions were discussed at great length and agreed by both parties as part of an appeal hearing at Brighton Magistrate Court in May 2022. They were intended to ensure the premises could operate in a safe way following a very serious incident that led to the premises licence

being suspended as an interim step and where revocation was initially requested. The 'Cumulative Impact Zone' is covered by special policy and paragraph 3.1.6 provides that:

'The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licences or club premises certificates within the area, or variations which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact.'
Paragraph 14.40 of the Secretary of State's Guidance to the Licensing Act 2003 (December 2022) provides:

'In publishing a CIA a licensing authority is setting down a strong statement of intent about its approach to considering applications for the grant or variation of premises licences or club premises certificates in the area described... Applications in areas covered by a CIA should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives.'

Additionally, this premises lies within Regency Ward which, as evidenced by the Brighton & Hove Public Health Framework for Assessing Alcohol Licensing (accessed at <https://public.tableau.com/app/profile/brightonhovepublichealthintelligence/viz/PublicHealthFrameworkforAssessingAlcoholLicensing/NavigationPage>) is ranked number 1 for All violence against the person, All injury violence, Non-injury and Sexual offences. This ward is also ranked number 2 for Police recorded alcohol related incidents and number 3 for Criminal damage, demonstrating the higher risk to the Licensing Objective of the Prevention of Crime and Disorder in this area.

The applicant did not pre consult with Sussex Police prior to the submission of this variation application and no rationale has been provided within the variation forms as to why the removal of these conditions is requested. Sussex Police believe this variation shows a continued lack of understanding around safeguarding concerns in the area and keeping people safe in the night time economy. Local concerns and issues that the area of West Street attract remain and no alternative provisions or conditions have been offered to mitigate that potential harm.

The application is consequently at risk of undermining the prevention of crime & disorder, protection of children from harm and public safety Licensing Objectives. Furthermore, Sussex Police contend that the carrying on of additional licensable activity by amending the licence to remove certain restrictions and requirements, previously defined at a Licensing hearing, will add to the existing negative cumulative effect in an area already saturated with licensed premises.

Therefore, Sussex Police invite the Licensing Authority to seriously consider refusing this application. We reserve the right to submit and include previous documentation and evidence relating to the Section 53a Review and subsequent appeal prior to any hearing to decide this Variation.

Yours sincerely,

**C/Insp Michelle Palmer-Harris
Operations (inc. Licensing) Chief Inspector
Brighton & Hove Division
Sussex Police**

REP B

CH CON ENDS 10.07.2023 VALID PCD & PCH

Mrs Hardcastle
Licensing Authority
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BN11JP

Date: 30 June 2023
Our Ref: 2023/01246/LICREP/EH
Phone: REDACTED TEXT
Email: REDACTED TEXT

Dear Mrs Hardcastle

Licensing Act 2003

Representation to the application for a Variation of a Premises Licence

Reference: 2023/02214/LAPREV

Molly Malones, 57 West Street, Brighton BN1 2RA

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 a variation application made on behalf of Indigo Leisure Limited for the premises of Molly Malones, 57 West Street, Brighton BN1 2RA.

This representation is made as the Licensing and Trading Standards Team have concerns that the licensing objectives of the Prevention of Crime and Disorder and Protection of Children from Harm are not being upheld.

In November 2014, Molly Malones was subject to a Review Hearing, following the premises failing an underage sales test purchase operation.

On 6 July 2021, an expedited review was brought by Sussex Police on the basis that the premises were associated with both serious crime and serious disorder. The incident involving serious crime and disorder took place in the early hours of the 6 July 2021.

On 3 August 2021, a decision was made at a Licensing Panel Review Hearing to revoke the Premises Licence.

This decision was appealed by the premises licence holder. The premises remained closed for almost a year before the appeal was heard at the Magistrates' Court on 3 May 2022, as an alternative to revocation a Consent Order was agreed by all parties for a change to the operations and a number of safeguarding conditions. The application submitted seeks to remove 3 of these conditions which were a key part of that Consent Order. (Please see below):

1. From midnight each day the premises shall operate as a dedicated and bona fides (non-DJ) live music venue and/or associated staged cabaret space. The sale of alcohol shall be ancillary to the provision of and /or presentation of live music

and/or cabaret events. At these premises live music will not include DJ presentations. For the avoidance of doubt the sale of alcohol shall end at the conclusion of the programmed live music and/or cabaret entertainment. Save in genuinely exceptional circumstances (for example, but not limited to, a failure of performer/s to attend) of which there can be no more than 21 occasions per calendar year. A record of each exemption and the reason for it shall be retained at the premises and shall be available for inspection by the licensing authority and the police on request.

5. The premises shall install a recognised electronic identification scanning system for customers entering the premises. The system shall be operated from 22:00 and all persons who appear to be under 30 entering the premises will be scanned. The system should have the ability to share alerts with other venues using similar ID scanning equipment, identify the hologram of an ID and read both Passports and ID cards, including PASS cards. The system should be able to conduct tests to determine if a document is genuine or counterfeit. The system must be compliant with the Information Commissioner's good practice guidance for ID scanning in clubs and bars.

Entry to customers who appear to be under the age of 30, without ID, shall be risk assessed and admitted to the venue on the discretion of the door entry team on duty. The name, date of birth, of these customers shall be recorded and a photographic image obtained. This information shall be made available to the police or licensing authority on request.

6. The premises will adopt and operate a daily last entry time of 2:30am

Prior to this application being submitted, no consultation has been made by either the Premises Licence Holder or the Legal Representative, and no rationale or explanation given within the variation application for why they want to remove these conditions that were agreed to in May 2022.

The Licensing and Trading Standards Team consider that removing these conditions would undermine the licensing objectives of Prevention of Crime and Disorder and Protection of Children from Harm. We therefore invite the panel to refuse the application.

We reserve the right to produce further evidence from either the review hearing or appeal at a later date.

Yours sincerely

REDACTED

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

Licensing Panel Decision dated 3 August 2021

Date: 3rd August 2021

Dear Sir or Madam,

RE: Licensing Act 2003 – Licensing Panel Hearing Notification of the Determination of Panel.

Licensing panel hearing held virtually via Teams on Tuesday the 3rd August 2021 in respect of the Summary Review of a premises licence in respect of premises known as Molly Malones, 57 West Street, Brighton, BN1 2RA

The panel have considered this application for summary review with accompanying certificate, and further representations and supporting information from both the police as applicant for the review and the premises licence holder. The relevant representations have also been considered. The panel have had regard to the S182 Guidance and the Council's Statement of Licensing Policy.

The summary review is brought by Sussex Police on the basis that the premises are associated with both serious crime and serious disorder. The incident involving serious crime and disorder took place in the early hours of the 6th July 2021. Full details of this incident are in the papers before us. Interim steps have been taken to suspend the premises licence pending this review hearing. 2 relevant representations have been received from the licensing team and the Children's safeguarding Team on the grounds of the prevention of crime and disorder and protection of children from harm. Revocation of the licence is sought.

The panel has listened carefully to all the submissions made today. From the police it was conceded that the incidents at the premises since July 2020 would not have in themselves founded a review application but taken with the event on the 6th July 2021 which was so serious they illustrate failures and longer term issues at the premises and together make the case for serious management failure and revocation. There was also the previous review of the licence in 2014 regarding underage test purchase.

Detailed submissions were made on behalf of the premises licence holder by their barrister. It was submitted that the 6th July 2021 was a cataclysmic one-off event which had sent shock waves through the premises but was not illustrative of systemic management failure. Indigo Leisure Ltd were responsible licence holders with solid training and management

procedures. These were documented in the paperwork. They held 18 licences, 17 across the city. The licence holder intended to have a new security firm in place and a new DPS due to the previous one moving on. It was submitted that revocation of the licence was not proportionate or justified on the evidence and should only be a last resort. Since the last review in 2014 the premises had not failed a test purchase and had been tested prior to the pandemic regularly by Serve Legal.

The panel must take such statutory steps under the Licensing Act 2003 (Section 53C) in response to the review as are appropriate to promote the licensing objectives. The panel has given consideration to all the options open to it.

The panel has been able to question the licence holder and managers about their practices and procedures. Much emphasis was placed on behalf of the licence holder of the wider policies and practices of Indigo Leisure Ltd. The panel consider not enough focus has been put on these particular premises which are situated in the heart of the city's nighttime economy. It transpired that on the night of the incident a relatively junior 'supervisor' was in charge rather than a fully-fledged manager in the early hours and that this was fairly common practice. There were clearly serious management and staff failures on the 6th July which permitted the 16 year old to gain access and remain in the premises. It is suggested that just 2 staff were responsible for this failure but the licence has a whole raft of conditions requiring regular surveillance and checks in the premises by all staff and yet these were not sufficient to prevent the serious incidents. There were clearly considerable failures on the part of the door staff at the premises on the 6th July and one of them working there referred to as the 'rogue door man' was already banned from working at the premises due to previous issues and this should have been prevented. The panel considers that better communication between managers and staff at different levels would have provided for a safer environment and would for example have prevented the doorman in question from working at the premises that evening.

Overall, the panel considers that too much emphasis has been placed on the wider credentials of Indigo Leisure Ltd rather than focus upon the effective management of these particular premises. Despite all the wider practices and training the panel does not consider that the management at the premises was strong enough to deal with the particular challenges these premises faced in this very sensitive location with prolonged late hours for licensable activities. The incidents over the last year which although in some aspects are contested by the licence holder, do reveal failures in systems and procedures. There are some themes which run through, such as intoxication and violence including sexual assault and an inability to control the behaviour of the clientele. The panel consider that there has been a breakdown in management over the last year and that this is a contributory factor leading to the events of the 6th July 2021. The panel must take such action as is necessary to promote the licensing objectives and, in this case, regrettably the panel consider that revocation of the licence is necessary to protect the public and to deter further crime and disorder. The panel does not consider that adding further conditions such as an ID scanner or reduced hours, both of which were canvassed with the licence holder, would be effective in addressing the panel's concerns. The decision is therefore to revoke the licence.

In terms of the review of the interim steps, namely the current suspension of the licence, the panel has decided that these shall remain in place until the decision made on this review comes into effect – i.e., for 21 days assuming no appeal is brought, or if such appeal is brought until the appeal is disposed of. The panel has considered the submissions made on behalf of the licence holder that the interim steps could be lifted even if the licence is

revoked but the panel consider it is appropriate to promote the licensing objectives and protect the current position to maintain the current suspension of the licence.

Yours faithfully

Legal adviser to the panel

Approved Consent Order from Brighton Magistrates' Court dated 3 May 2022

In the Brighton Magistrates' Court

In the matter of s 181 and Sch 5 of the Licensing Act 2003 Between:

Indigo Leisure Ltd
(t/a Molly Malones, 57 West Street, BN1 2RA)

Appellant

And

Brighton & Hove City Council

Respondent

Consent Order

- [1] From midnight each day the premises shall operate as a dedicated and bona fides (non-DJ) live music venue and/or associated staged cabaret space. The sale of alcohol shall be ancillary to the provision of and / or presentation of live music and/or cabaret events. At these premises live music will not include DJ presentations. For the avoidance of doubt the sale of alcohol shall end at the conclusion of the programmed live music and/or cabaret entertainment. Save in genuinely exceptional circumstances (for example, but not limited to, a failure of performer/s to attend) of which there can be no more than 21 occasions per calendar year. A record of each exemption and the reason for it shall be retained at the premises and shall be available for inspection by the licensing authority and the police on request.

- [2] The premises will operate with a minimum of two managers, an operational manager and a general manager, one of whom will be the DPS. Each manager will be contracted to work for a minimum of three evenings per week. On occasions when the managers are not working a shift manager will be on duty. All managers must hold a personal licence.
- [3] A premises Manager and the Area Manager (or in exceptional circumstances her nominated representative) shall attend the quarterly scheduled meetings of the BCRP (or similar successor body).
- [4] A minimum of One SIA Door Supervisor will be on duty when one or two floors are being used from Sunday to Thursday from 22:00.
- [5] ***The premises shall install a recognised electronic identification scanning system for customers entering the premises. The system shall be operated from 22:00 and all persons who appear to be under 30 entering the premises will be scanned. The system should have the ability to share alerts with other venues using similar ID scanning equipment, identify the hologram of an ID and read both Passports and ID cards, including PASS cards. The system should be able to conduct tests to determine if a document is genuine or counterfeit. The system must be compliant with the Information Commissioner's good practice guidance for ID scanning in clubs and bars.***
- Entry to customers who appear to be under the age of 30, without ID, shall be risk assessed and admitted to the venue on the discretion of the door entry team on duty. The name, date of birth, of these customers shall be recorded and a photographic image obtained. This information shall be made available to the police or licensing authority on request.***
- [6] The premises will adopt and operate a daily last entry time of 2:30am.
- [7] Within 21 days of reopening all premises management staff are required to attend an external safeguarding course. New premises management staff are required to attend an external safeguarding course within 6 weeks of commencing their work duties. All other staff are required to complete internal safeguarding training before commencing work duties as part of their induction. Internal refresher training, for all staff, to be undertaken at regular intervals of no more than six months. Copies of the external training attendance and refresher training records shall be retained at the premises and shall be available to the Police or Licensing Authority upon request.
- [8] The Premises shall have in place a written comprehensive safeguarding policy which shall also include a copy of the internal staff training. This policy shall be kept under review and kept updated as needed. The

safeguarding policy shall have regard to the most current Brighton & Hove Statement of Licensing Policy and the Night-time Economy Safeguarding Initiatives. A copy of the safeguarding policy shall be retained at the premises and shall be available for inspection by the Licensing Authority and the Police upon request.

No Order as to Costs

Consent Order is approved

Brighton Magistrates Court

Appendix D



The Licencing Committee – Licensing Act 2003

Brighton & Hove City Council

By email only

Dear Sirs

LICENSING ACT 2003 INDIGO LEISURE LIMITED

APPLICATION FOR A VARIATION OF THE PREMISES LICENCE

MOLLY MALONES, 57 WEST STREET, BRIGHTON, EAST SUSSEX, BN1 2RA

Indigo Leisure Limited runs Molly Malones, a live music venue and Irish pub in the heart of Brighton's night time economy.

The licence was amended on 3 May 2022 as a result of a Magistrates' Consent Order in the course of an appeal prompted by a review of the premises licence. By agreement between the Council, the Police and the Licensee, various conditions were added to the licence. There was a dispute at the time as to their likely efficacy, but in the spirit of cooperation, the conditions were added as an alternative to a fully fought appeal. The case was by no means all one way; all parties compromised and made concessions. It was always an overt part of the Appellant's case that the premises would open and continue to trade for a period of time, before making a further application to restore the licence to operational standards. This variation application comes as no surprise to anyone involved in the appeal.

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The premises have traded without problem or concern for over a year, and three of the conditions imposed are causing problems. They are not promoting any licensing objective, and they are unreasonably hampering the operation of the premises, and causing difficulties for members of the public. This variation application seeks to remove these three conditions:

1. From midnight each day the premises shall operate as a dedicated and bona fide (non-DJ) live music venue and/or associated staged cabaret space. The sale of alcohol shall be ancillary to the provision of and /or presentation of live music and/or cabaret events. At these premises live music will not include DJ presentations. For the avoidance of doubt the sale of alcohol shall end at the conclusion of the programmed live music and/or cabaret entertainment. Save in genuinely exceptional circumstances (for example, but not limited to, a failure of performer/s to attend) of which there can be no more than 21 occasions per calendar year. A record of each exemption and the reason for it shall be retained at the premises and shall be available for inspection by the licensing authority and the police on request.

The phrase “dedicated and bona fide live music venue” is ambiguous. The ability to make a relatively large number of exceptions to the condition before the condition will be deemed to be breached demonstrates not only the lack of need for the condition, but the difficulty with complying with it as written. Any condition that needs at least 21 exceptions to it in a year is a weak condition, and virtually unenforceable, as no Authority would easily be able to tell, on any given occasion, whether it was an “exception” night or not. The difficulty of booking and retaining musicians to attend without default is hugely stressful for the management, and this condition achieves nothing meaningful whatsoever. It has nothing at all to do with any of the issues that were ever alleged against the premises, and plays no part in the ability of the premises to prevent issues arising in the future, which they are more than capable of doing without this condition. The premises books around sixteen acts a week. There are times where the manager has to get out of bed in order to deal with a situation where a musician cancels at the last minute, or fails to show up. Defaulting to recorded music in such a situation would make

no difference at all to the operation of the premises, but a huge difference to the strain on staff, which is pointless.

5. The premises shall install a recognised electronic identification scanning system for customers entering the premises. The system shall be operated from 22:00 and all persons who appear to be under 30 entering the premises will be scanned. The system should have the ability to share alerts with other venues using similar ID scanning equipment, identify the hologram of an ID and read both Passports and ID cards, including PASS cards. The system should be able to conduct tests to determine if a document is genuine or counterfeit. The system must be compliant with the Information Commissioner's good practice guidance for ID scanning in clubs and bars.

Entry to customers who appear to be under the age of 30, without ID, shall be risk assessed and admitted to the venue on the discretion of the door entry team on duty. The name, date of birth, of these customers shall be recorded and a photographic image obtained. This information shall be made available to the police or licensing authority on request.

ID scanners are largely overrated, and represent a playing field within the night time economy that is not level. Many other comparable premises do not have ID scanners. Conditioned scanners make premises commercial hostages to the scanner providers. Molly Malones runs a strict No ID, No Sale for their Challenge 30 policy. This is the highest age verification policy in Brighton and one of the highest in the country. Door staff are well able to check ID's manually without a scanner being present. Scanners are not 100% reliable; tend to create queues and frustration, and have not been demonstrated to be effective to prevent any conflict with a licensing objective in this case.

6. The premises will adopt and operate a daily last entry time of 2:30am

The 2:30am restriction brings trouble to both venue staff and door staff. The policy has the effect of excluding patrons who have not caused any problems, but need to leave the venue briefly and then re-enter. A classic scenario is where a customer would like to escort a friend in safety to the taxi rank, or step outside to make a phone call, and then return. Under the current condition this is not permitted. One of the key demographics visiting Molly Malones was the hospitality staff who had finished their shift at other premises and liked to finish

their evening at the music venue. By definition, such individuals are low risk, but are prevented from accessing the premises for no particular reason.

The imposition of conditions under any regulatory regime, including the licensing regime must meet certain tests. The tests under the Secretary of State's s.182 Guidance are set out at paragraph 1.16:

"1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will" is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met;
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format."

See also paragraph 10.10.

The three conditions challenged in this variation do not meet the terms of this guidance. They are not clear in what they are trying to achieve; they are not achieving anything in fact, as demonstrated over the course of the last year, and in fact they are causing problems. Therefore, they are not proportionate and justified.

Any issues that the responsible authorities purported to rely upon from 2014 or even the single incident in July 2021 were isolated and now historical. Even at the time of the appeal, it was overtly agreed in writing, based upon the evidence that the level of engagement between the Police and Molly Malones has been high and constructive. That remains the case. The incident in July 2021 arose due to a rogue member of doorstaff taking a bribe. It was not a result of endemic operational or management failure. It was not something that could ever have been prevented by any of the three conditions now under challenge.

The Applicant will be pleased to place before the Licensing Committee the extensive email threads that have arisen between the Licensee and the Police over the course, of the last year, including with Chief Inspector Michelle Palmer-Harris personally. These demonstrate close and cooperative working; regular engagement and complete satisfaction by the Police with the operation of Molly Malones. Chi Inspector has stated in terms, in writing, that she was pleased that Molly Malones was trading again. This ability to trade is seriously compromised by the conditions that are in this application, at a time where business trading is heavily threatened by a range of considerations, including energy and cost of living crises.

Evidence will be demonstrated of the visit by Police on 3 May 2023, once again confirming that the Police are entirely happy with reporting and compliance at Molly Malones. There has been overt confirmation that there have been no concerns arising over the course of the last year.

The Police, shortly before submitting this application to vary the conditions on this Premises Licence, were specifically asked if they had any issues or concerns regarding the operation of the premises. They did not reply, signifying, we contend, that they are content

The Police representation references the Cumulative Impact Zone. Molly Malones has always been within the CIZ. The previous appeal had nothing to do

with this. The Police cite the Policy, and also refer to the apparent crime statistics for the ward in which these premises are situated. These statistics would need to be examined in some detail to establish nexus with the night time economy. In any event, it is noted that the Licensing Authority has just granted a premises licence to the Botanist, in the same ward as Molly Malones - some fifty metres away.

Ms Lynsdale has made a representation on behalf of the Licensing Authority. Ms Lynsdale was involved in the review in 2022, and confirmed that the training that had been administered, in part by her, to the premises was satisfactory. No issues have been raised by Ms Lynsdale about the premises since. Although Ms Lynsdale states that the licensing objectives “*are* not being upheld”, her only references are historical, and pre-date the last appeal, namely November 2014, and July 2021. The issues raised there were comprehensively dealt with in the last consent order. What would have been more helpful to the decision maker would have been a consideration of what has happened since. The exact circumstances pertaining to 2014 and 2021 are well known to all parties, and it would not be appropriate to default to earlier representations about them that are not accurate.

Ms Lynsdale maintains in her representation that the Licensing and Trading Standards Team resist the removal of the conditions on the basis that to do so would undermine the licensing objectives of Prevention of Crime and Disorder and Protection of Children from Harm. She does not explain why she is of this view, nor what evidence she relies upon to make this assertion. Ms Lynsdale has no reason to criticise Molly Malones in the last year.

Complaint is made that the applicant did not consult with the Police as part of a pre-application process. From experience, Responsible Authorities typically decline to engage in formal pre-application approaches. In any event, Molly Malones management are in contact with the RA's all the time, and would have expected to have received any concerns directly, if there had been any. Molly Malones will disclose the email threads between management and the RA's, to demonstrate close and cooperative working over more than a year.

Molly Malones is an important part of the Brighton night time economy and cultural offering. It is a grass roots music venue, which are acknowledged to be

under threat in the current economy. The premises employs at least seven personal licence holders in management positions, and at least twenty bar staff. The premises trade every night of the week, and bring important business to Brighton's local economy. The Council will have many policies concerning the support of local business and its economy in these difficult times, and these are all relevant to consideration of this application, as indeed they were for the Botanist application.

The importance of financial and commercial considerations in licensing decisions has been endorsed by the Court of Appeal:

In the Court of Appeal Toulson LJ set out the range of considerations that should be addressed by a licensing decision maker:

R (Hope and Glory Public House Limited) v City of Westminster Magistrates' Court [2011] EWCA Civ 31

"42. Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance. Although such questions are in a sense questions of fact, they are not questions of the "heads or tails" variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact."

It is notable in this list that the first three elements identified by the Learned Judge relate to demand, economic benefit, and stimulating the locality.

This application is commended to the Licensing Sub-Committee as appropriate and proportionate, and amply supported by the protracted period of trouble free trading, which is being hampered not aided by the three conditions in this application.

Yours Faithfully

REDACTED

Dean Wilson LLP

Solicitors for the Applicant

APPENDIX F

Nicholas Perkins
Dean Wilson LLP
Ridgeland House
165 Dyke Road
Brighton
BN3 1TL

Date: 31st July 2023
Our Ref: JW1/MM
Phone: REDACTED
e-mail: REDACTED

By email and post

Dear Mr Perkins,

Re: Molly Malones 57 West Street, Brighton, BN1 2RA
Ref: Variation premises licence application 2023/02214/LAPREV

As you are aware the Licensing Authority and Sussex Police have both made representations against this application. We have considered your submission as to the reasons for the application and removal of specified conditions. We acknowledge that communication between the venue and Sussex Police has been consistent relating to any incidents or issues e.g. CCTV breakdown since the premises reopened in 2022. While we do not accept many of the other assertions made in your submission, in a spirit of co-operation and partnership working we write to explore possible scope for compromise. We believe it would be helpful to look at all the proposed amendments individually.

Conditions proposed to be removed and comments relating to each:

- 1. From midnight each day the premises shall operate as a dedicated and bona fides (non-DJ) live music venue and/or associated staged cabaret space. The sale of alcohol shall be ancillary to the provision of and / or presentation of live music and/or cabaret events. At these premises live music will not include DJ presentations. For the avoidance of doubt the sale of alcohol shall end at the conclusion of the programmed live music and/or cabaret entertainment. Save in genuinely exceptional circumstances (for example, but not limited to, a failure of performer/s to attend) of which there can be no more than 21 occasions per calendar year. A record of each exemption and the reason for it shall be retained at the premises and shall be available for inspection by the licensing authority and the police on request.*

It is noted that this was an important condition in the Appeal negotiations and was widely discussed in correspondence relating to the Review. It speaks to the character of Molly Malones as a live music venue rather than a purely late night alcohol led premises and was something which you yourselves put forward in your evidence for the appeal.

Live music venues are recognised in the council's licensing policy and there is an active Live Music Venue Trust group within Brighton & Hove. You have said you put on 16 acts per week and there is consistent messaging and advertising on the pub's website and social media around live music every night but specifically Friday & Saturday from 8pm – 4am.

Telephone: 01273 290000
www.brighton-hove.gov.uk

Your client says that the condition is too inflexible. To enable Molly Malones to continue to uphold its standing as a live music venue we would be willing to offer some amendment and flexibility to the condition but would be opposed to its removal per se. A suggested amendment could be:

1. *From midnight-Thursday to Saturday (inclusive) the premises shall operate as a dedicated and bona fides (non-DJ) live music venue and/or associated staged cabaret space. The sale of alcohol shall be ancillary to the provision of and I or presentation of live music and/or cabaret events. At these premises live music will not include DJ presentations. For the avoidance of doubt the sale of alcohol shall end at the conclusion of the programmed live music and/or cabaret entertainment. Save in genuinely exceptional circumstances (for example, but not limited to, a failure of performer/s to attend) of which there can be no more than 21 occasions per calendar year. A record of each exemption and the reason for it shall be retained at the premises and shall be available for inspection by the licensing authority and the police on request.*

Regarding the ID Scanner and last entry time:

5. *The premises shall install a recognised electronic identification scanning system for customers entering the premises. The system shall be operated from 22:00 and all persons who appear to be under 30 entering the premises will be scanned. The system should have the ability to share alerts with other venues using similar ID scanning equipment, identify the hologram of an ID and read both Passports and IDcards, including PASS cards. The system should be able to conduct tests to determine if a document is genuine or counterfeit. The system must be compliant with the Information Commissioner's good practice guidance for ID scanning in clubs and bars.*

Entry to customers who appear to be under the age of 30, without ID, shall be risk assessed and admitted to the venue on the discretion of the door entry team on duty. The name, date of birth, of these customers shall be recorded and a photographic image obtained. This information shall be made available to the police or licensing authority on request.

6. *The premises will adopt and operate a daily last entry time of 2:30am.*

We regard condition 5 as a critical safeguarding tool and hugely important. The importance of an ID Scanner both as a crime prevention tool to prevent underage as well as an investigative tool should a suspect or victim need to be identified is key.

Police have visited the premises and spoken to the staff and managers who are very positive about the ID Scanner and its uses. It is illustrated within the emails provided by yourselves that it has been used in the investigation of crime (REF 20). There is no evidence that it creates queues and frustrations and customers on West Street are largely accepting and prepared for ID checks. The majority of late-night venues on West Street have an ID Scanner and the benefits have been consistently proven as a tool to ensure public safety and to prevent crime & disorder.

It is important also to note that the agreement to the ID scanner was one of the checks and balances put in place to allow Molly Malones to retain their late night hours until 04:00. The incident that resulted in the Section 53a Review took place at 04:14 following the premises

closing and so an argument was made for the hours of operation to be reduced. As a compromise to ensure Molly Malones could continue as a live music venue until 04:00, an ID scanner and a last entry time were proposed and agreed to provide an extra level of protection for the public and indeed staff members at the premises.

The last entry time was agreed taking into account concerns raised during the appeal and is comparable to other venues on West Street. The intention was to ensure that Molly Malones customers were safely inside the venue and reduce the risk of already intoxicated persons looking for a last place to go earlier into the morning. The example given within your submission of customers needing to leave to ensure a friend got to a taxi safely is acknowledged and in the spirit of compromise we can put forward the following proposed amendment:

6. *The premises will adopt and operate a daily last entry time of 2.30 am. There shall be no new customers entering the premises after this time but re-entry by existing bona fide customers who have left the premises temporarily for up to 30 minutes prior shall be permitted. (SIA Door staff are expected to monitor this.)*

Safeguarding training condition:

7. *Within 21 days of reopening all premises management staff are required to attend an external safeguarding course. New premises management staff are required to attend an external safeguarding course within 6 weeks of commencing their work duties. All other staff are required to complete internal safeguarding training before commencing work duties as part of their induction. Internal refresher training, for all staff, to be undertaken at regular intervals of no more than six months. Copies of the external training attendance and refresher training records shall be retained at the premises and shall be available to the Police or Licensing Authority upon request.*

Neither the Local Authority nor Sussex Police have an issue with amendment of the training condition. We would hope to see copies of the internal training manual relating to the safeguarding policy and what has been written/included within it.

We hope that you will give these proposals serious consideration. If an agreement can be reached a hearing may not be necessary and will enable Molly Malones to operate on these terms from an earlier date. If you feel a meeting would be useful this could be arranged with all parties present.

We look forward to hearing from you at the earliest opportunity.

Yours sincerely,

REDACTED TEXT

Jim Whitelegg
Regulatory Services Manager (Licensing & Trading Standard)

Cc by email

Corinne Hardcastle, Licensing Officer (Licensing Authority)
Claire Abdelkader, Police Licensing Officer, Sussex Police (Responsible Authority)
Donna Lynsdale, BHCC Licensing Officer/Fair Trading Officer (Responsible Authority)

1 August 2023

Mr J Whitelegg
Brighton & Hove City Council

Our Ref: REDACTED
Leisure Limited
Direct dial: REDACTED
E-mail: REDACTED
Your Ref:

By email: REDACTED

Dear Mr Whitelegg

MOLLY MALONES - 57 WEST STREET BRIGHTON BN1 2RA

Thank you for yours of 31 July.

I have discussed the same with my clients and with Counsel.

Whilst we welcome the fact that you and apparently Sussex Police are prepared to have a dialogue, with a view to compromise, I regret that your proposals are insufficient to avoid a Hearing before the Committee and if necessary, an appeal.

With regard to the current live music condition, we fail to see that you are really making any proposal that would change the current situation. Please explain?

In any event we struggle to understand your position on such a condition. I remind you that in your submission to the last Review you stated – at para 14:

“.. in my opinion Molly Malones is not a venue associated with live music. It is not clear to me what relationship live music operations have to the decision of the Licensing Panel in this case.”

Given this, you will agree that it is, in truth, wholly unnecessary to have a condition that requires Molly Malones to be a live music venue, although that is precisely what Molly Malones is.

As matters stand it is a bit like having a condition that requires a cinema to show films - simply unnecessary.

Turning to the issue of the ID scanner, I see that no compromise is offered, and rather yours under reply simply sets out the justification put forward by Sussex Police for requiring the ID scanner.

The amendment you are proposing regarding last entry is in reality, de minimis and does not address the issues the premises are currently facing in this regard.

I would be happy of course to speak with you at any time before the Hearing on the 31st but we would

Dean Wilson LLP

Solicitors

be looking for some serious movement on the part of BHCC and/or Sussex Police.

Yours sincerely

REDACTED

Nicholas Perkins
On behalf of
Dean Wilson LLP

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