

APPENDIX F

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16th February 2012

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

Dear Sirs,

Re: application for variation of the premises licence under the Licensing Act 2003 for Funky Bars and Restaurants Ltd, 12 -14 West Street, Brighton, BN1 2RQ.

Sussex Police wish to make representations in respect of this variation application on the grounds of the prevention of crime and disorder, public nuisance and cumulative impact.

Sussex Police oppose the application dated 1st February 2012 for variation of the premises licence by Funky Bars and Restaurants Ltd, trading as Latin Lounge.

This variation application seeks to increase the late night opening hours and hours for the supply of alcohol by a total of twelve hours per week. The hours for live music, amplified recorded music, are also to be increased. Of particular significance is the application to provide facilities for dancing as a new licensable activity until 02:30, seven days a week.

To assist the Committee, attached to this representation is a spreadsheet analysis laying out the existing licensable activities and their permitted hours, compared with the new proposed activities and hours applied for.

The original licence for Latin Lounge was applied for in 2009, after the cumulative impact policy came into effect. In the Determination of Panel Hearing Notification letter dated 18th December 2009, the Council stated:

The panel took into account that this application was in one of the most sensitive parts of the Cumulative Impact Area with a saturation of existing premises which added to problems of crime and disorder and public nuisance. They considered the proposed style of operation of the premises and that they intended to operate differently to others in the area, but felt that this did not overcome the fact that an additional licence would bring more people into the area and contribute to existing problems. The panel shared the concerns of the police in this respect.

The panel considered placing a raft of conditions on the licence but felt ultimately that in this case no amount of conditions would mitigate the problem of negative cumulative impact.

The panel therefore decided to refuse the application as they did not feel that the applicants had demonstrated that there would be no negative impact on crime and disorder and public nuisance in the immediate area.

The applicant then appealed to Brighton Magistrates. The appeal was disposed of by way of a consent order in May 2010, after agreement was reached on a number of new conditions. The majority of these proposed conditions had been rejected by the applicant prior to the Committee refusing the licence. The agreement contained a number of new conditions, included the following four key points:

Alcohol shall only be sold/supplied as an ancillary to a table meal.

All patrons shall be seated at tables or the bar counter and all service of alcohol shall be by waiter/waitress to table.

Patrons will not be permitted to queue for entry outside the premises after midnight.

There shall be no facilities for customer dancing. [The proposed removal of this condition was confirmed by Mr J Minor in an email dated 6th February 2012 to Council Licensing.]

The applicant in this variation application is now seeking to completely remove these four key conditions. Attached to this representation is a witness statement from Inspector Roy Apps, which provides more details on why Sussex Police are concerned that these conditions may be removed from the existing licence, together with our concerns about the proposed increased hours.

The basis for Sussex Police's opposition to this variation application is that the granting of a variation for these premises will not promote the licensing objectives, particularly the prevention of crime and disorder and the prevention of public nuisance, but will give rise to potential negative cumulative impact.

The premises in respect of which the application is made is situated within the Brighton & Hove City Council cumulative impact area. This is a mixed-use area with clubs, pubs and restaurants which currently suffers from high level of alcohol-related anti-social behaviour and disorder.

The concentration of licensed premises within this area of the City causes problems of anti-social behaviour, crime and disorder and public nuisance. Consequently, after due consultation and consideration, on 13th March 2008 the Licensing authority resolved that it was both appropriate and necessary to adopt a special policy in relation to cumulative impact.

Paragraph 2.6.5 of the Council 2011 Statement of Licensing policy (as amended 20th December 2011) states that "the special policy will only be overridden in exceptional circumstances. The effect of this special policy is that application for new premises licence or club premises certificate within the area, or variations which are likely to add to the existing cumulative impact, will be refused following relevant representation. This presumption can be rebutted by the applicant if they can show that their application will have no negative cumulative impact".

Contrary to the Secretary of State's guidance, the applicant fails to demonstrate in its operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. The applicant makes no reference to cumulative impact whatsoever, and nothing in the application or the operation schedule either rebuts the presumption of refusal contained within paragraph 2.6.5 of the Licensing Authority's statement of licensing policy, or provides any reason for the Licensing Authority to depart from its special policy.

Accordingly the Committee is invited to refuse this variation application.

Yours faithfully,



Graham Bartlett
Chief Superintendent
Divisional Commander
Brighton & Hove Division

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WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B: Criminal Procedure Rules 2005, Rule 27.1


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Statement of: Roy Anthony Apps

Age if under 18: _____ (if over 18 insert 'over 18') Occupation: Police Inspector

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false or do not believe to be true.

Signature:  Roy Apps Date 16th February 2012

Tick if witness evidence is visually recorded (supply witness details on rear)

Latin Lounge is a venue in the centre of West Street, which currently has a capacity of 150 persons stated on the premises licence.


The Committee will be aware that West Street is in the very heart of the cumulative impact area. This street is already saturated with late night vertical drinking pubs, bars and night clubs.

The premises licence for this venue was originally applied for in autumn 2009, after the cumulative impact policy came into effect. The applicants insisted that the venue would be a restaurant and a 'lounge bar'. However the application included live music until 24:00, and recorded music, facilities for dancing, late night refreshment, supply of alcohol and opening hours until 04:00. No condition was offered in relation to either café bar conditions, or alcohol being served by waiter/waitress service to persons seated at tables and ancillary to a table meal, despite the continuing insistence by the applicants that the premises was a restaurant.

The applicant continued with their stance that the premises was not a bar and night club in the Licensing Committee hearing on the 17th December 2009, and when asked in front of the Sub Committee by counsel for Sussex Police if in view of their continuing insistence that the venue was a food led restaurant, they would accept a condition on the licence that "alcohol would be served by waiter/waitress service to persons seated at tables and ancillary to a table meal only", the applicant said no. The Committee refused to grant the licence on the grounds of cumulative impact.

The applicant then appealed the decision to Brighton Magistrates. There were significant changes to the application submitted to Magistrates, to the extent that the revised application differed radically from that put before the original Licensing Sub Committee who refused the original application. Then applicant agreed to be a restaurant with alcohol ancillary to a table meal and some performance of dancing, and waiter/waitress service.

Finally a new licence was granted with conditions appropriate to a new venue in the cumulative impact area by way of a Consent Order agreed on the 6th May 2010. All of the

Signature: 

Signature witnessed by: _____

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new conditions agreed as part of the order are listed in the current premises licence under annex 3.

The variation application now submitted by the applicant seeks to remove four key conditions on the licence as follows:

1. Alcohol shall only be sold/supplied as an ancillary to a table meal.
2. All patrons shall be seated at tables or the bar counter and all service of alcohol shall be by waiter/waitress to table.
3. Patrons will not be permitted to queue for entry outside the premises after midnight.
4. There shall be no facilities for customer dancing.

Sussex Police are very concerned that if these conditions are removed, this will permit the premises to turn into yet another vertical drinking pub or bar in West Street, in the heart of the cumulative impact area. The original premises licence was eventually granted in the cumulative impact area only after appropriate, legal and enforceable conditions were put on the licence to guarantee that it was a genuine food led venue. The removal of these conditions will allow the applicant a free reign to radically change the nature and style of the venue from a genuine food led venue to a nightclub and pub/bar. These concerns are further justified by the fact that the applicant wants to introduce facilities for the provision of dance, and remove the condition prohibiting queuing outside the venue after 24:00.

Sussex Police are concerned about the proposed removal of the condition prohibiting queuing after 24:00 because of public nuisance, noise issues and the risk of crime and disorder. Queuing after midnight may lead to blocking of the pavement, and depending upon where any queue is placed, it will either go up Russell Road (which is on the corner of a busy junction used by many cars and taxis late at night), or along West Street across the entrance of the Travel Lodge.

The majority of venues on West Street have SIA registered door supervisors to supervise and properly manage their queues outside of their premises. It is noted that there is no mention anywhere in the variation application of how the applicant proposes to manage these queues despite applying for the condition to be removed. Jostling and fighting does occur in queues outside of venues in the City, and there is also interaction between people in a queue and people passing by, which can also lead to conflict. There has been a dramatic increase in thefts and pick pocketing from pockets and handbags in the City night time economy in the last year. Queues of people standing outside venues are a particularly attractive target for professional thieves, who often work in organised gangs.

There are existing conditions on the licence in relation to SIA registered door supervisors as follows:

- 11). There shall be two SIA registered door staff on duty on Thursday to Saturday from 20:00 to 02:30.

Continuation of statement of

12). There shall be one SIA registered door person on Sunday to Wednesday from 20:00 until 30 minutes after closing time.

The variation application seeks to increase the opening hours to 03:00 seven days a week. However nowhere in the variation application does the applicant make any reference to the resulting disparity between the existing condition (which will remain unchanged) for door supervisors on Thursday, Friday and Saturday nights. Accordingly if the variation application is granted, door supervisors will only be required on these three nights until 02:30, but the premises will be permitted to stay open until 03:00. The provision of SIA registered door staff has made a major contribution to safety of people in the City. Accepted good practice nationwide is that there should be a minimum of two door staff, especially when dealing with the public at the entrances to City centre late night venues.

Sussex Police are concerned that this variation application could radically alter the nature and style of the venue completely from a food led venue to a bar or nightclub, in which case the existing door supervisor requirement may well be wholly inadequate and should be re-examined in it's entirety. One door supervisor on Sundays through to Thursday for a bar and nightclub to patrol inside the venue, monitor the door and supervise any late night queue may be wholly inadequate.

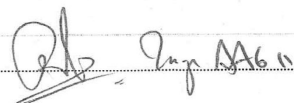
At no time whatsoever has the applicant made any contact with Sussex Police Licensing to discuss the contents of the variation application. The application makes no reference whatsoever to cumulative impact.

The issue of the increase in hours for licensable activities (as detailed in our representation and analysis attachment), and the introduction of facilities for the provision for dancing also causes us concerns in relation to cumulative impact. In the event that the premises is put up for sale by the existing owners, the removal of the above conditions and the increase in hours requested will substantially increase the value of the premises for a new operator wanting to open a late night bar and nightclub with vertical drinking and dancing.

Our experience is that the dispersal of patrons at food led venues is gradual throughout the evening. If the variation being applied for with extended hours is granted with supply of alcohol until 02:30 and closing at 03:00 seven days a week, then our concern is that patrons (having had extended hours to consume alcohol) will then leave all together at the same time, as they do at many nightclubs and bars already in West Street. This adds greatly to the already considerable problems of crime, disorder and anti social behaviour in the City, and is contrary to the cumulative impact policy.

The application does not give any exceptional circumstances as to why the variation should be granted in the cumulative impact area. If a new application had been applied for at this site with the key conditions absent and the new hours applied for, Sussex Police would make representations against it on the grounds of cumulative impact.

Signature



Signature witnessed by:

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**LATIN LOUNGE - VARIATION APPLICATION RECEIVED 2ND FEBRUARY 2012
ANALYSIS OF EXISTING HOURS COMPARED TO NEW
EXTENDED HOURS APPLIED FOR**

EXISTING HOURS			NEW HOURS APPLIED FOR			INCREASE
Live Music			Live music			
Mon	18:00	22:30	Mon	18:00	24:00	+ 1.5
Tues	18:00	22:30	Tues	18:00	24:00	+ 1.5
Weds	18:00	22:30	Weds	18:00	24:00	+ 1.5
Thurs	18:00	22:30	Thurs	18:00	24:00	+ 1.5
Fri	18:00	22:30	Fri	18:00	24:00	+ 1.5
Sat	18:00	22:30	Sat	18:00	24:00	+ 1.5
Sun	18:00	22:30	Sun	18:00	24:00	+ 1.5
Recorded music - amplified			Recorded music - amplified			
Mon	20:00	00:30	Mon	20:00	02:30	+ 2.0
Tues	20:00	00:30	Tues	20:00	02:30	+ 2.0
Weds	20:00	00:30	Weds	20:00	02:30	+ 2.0
Thurs	20:00	01:30	Thurs	20:00	02:30	+ 1.0
Fri	20:00	01:30	Fri	20:00	02:30	+ 1.0
Sat	20:00	01:30	Sat	20:00	02:30	+ 1.0
Sun	20:00	23:30	Sun	20:00	02:30	+ 3.0
Provision of facilities for dancing			Provision of facilities for dancing			
Mon	n/a	n/a	Mon	20:00	02:30	+ 6.5
Tues	n/a	n/a	Tues	20:00	02:30	+ 6.5
Weds	n/a	n/a	Weds	20:00	02:30	+ 6.5
Thurs	n/a	n/a	Thurs	20:00	02:30	+ 6.5
Fri	n/a	n/a	Fri	20:00	02:30	+ 6.5
Sat	n/a	n/a	Sat	20:00	02:30	+ 6.5
Sun	n/a	n/a	Sun	20:00	02:30	+ 6.5
Supply of alcohol			Supply of alcohol			
Mon	11:00	00:30	Mon	11:00	02:30	+ 2.0
Tues	11:00	00:30	Tues	11:00	02:30	+ 2.0
Weds	11:00	00:30	Weds	11:00	02:30	+ 2.0
Thurs	11:00	01:30	Thurs	11:00	02:30	+ 1.0
Fri	11:00	01:30	Fri	11:00	02:30	+ 1.0
Sat	11:00	01:30	Sat	11:00	02:30	+ 1.0
Sun	11:00	23:30	Sun	11:00	02:30	+ 3.0

Hours open to the public		
Mon	07:00	01:00
Tues	07:00	01:00
Weds	07:00	01:00
Thurs	07:00	02:00
Fri	07:00	02:00
Sat	07:00	02:00
Sun	07:00	24:00

Performance of dance		
Mon	18:00	23:30
Tues	18:00	23:30
Weds	18:00	23:30
Thurs	18:00	23:30
Fri	18:00	23:30
Sat	18:00	23:30
Sun	18:00	23:30

Hours open to the public		
Mon	07:00	03:00
Tues	07:00	03:00
Weds	07:00	03:00
Thurs	07:00	03:00
Fri	07:00	03:00
Sat	07:00	03:00
Sun	07:00	03:00

Performance of dance		
Mon	n/a	n/a
Tues	n/a	n/a
Weds	n/a	n/a
Thurs	n/a	n/a
Fri	n/a	n/a
Sat	n/a	n/a
Sun	n/a	n/a

+ 02.00
+ 02.00
+ 02.00
+ 01.00
+ 01.00
+ 01.00
+ 03.00
nil
nil
nil
nil
nil
nil
nil

PPN
CIA
Felicity Broder

(B)

SC Con: 1/3/12

From: Jason Kitcat [jason@jasonkitcat.com]
Sent: 28 February 2012 11:09
To: EHL Safety
Subject: Objection to licensing application 1445/3/2012/00192/LAPREV - Latin Lounge

Dear Licensing Team

I am writing as a ward councillor to object to the application for Latin Lounge on West Street, reference 1445/3/2012/00192/LAPREV.

As licensing committee members will know, West Street is at the heart of the Cumulative Impact Area, and has struggled with serious disorder, noise, nuisance and anti-social behaviour due to licensable activities on the street. The street is also a residential street with over 100 units either on or overlooking the street.

Latin Lounge's existing license were the result of strong objections from the Police, ward members and the community. I continue to strongly feel that any extension to the hours already granted would undermine the cumulative impact and would have a significant negative impact to all the licensing objectives but particularly the prevention of crime and disorder and the prevention of public nuisance.

The street cannot take any more late night licensed venues and I would strongly urge you to refuse this application in its entirety.

Please confirm receipt of this representation.

Best regards,
Jason

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Cllr Jason Kitcat
Green City Councillor, Regency Ward
Brighton & Hove City Council

<http://www.jasonkitcat.com>
+ 44 (0) 7956 886 508

Cabinet member for Finance & Central Services

