

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS) ADDENDUM

10.00AM, THURSDAY, 2 DECEMBER 2021

VIRTUAL - VIA MICROSOFT TEAMS

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ADDENDUM

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BEFORE BRIGHTON & HOVE CITY COUNCIL LICENSING SUB-COMMITTEE



The Brighton Zip

Madeira Drive

Brighton BN2 1EN

SUMMARY OF APPLICANT'S SUBMISSIONS

For Hearing Wednesday 20 October 2021

Introduction

1. The Applicant is Madeira Leisure Limited, the operator of The Brighton Zip (the "Premises"), a well-known attraction on Brighton seafront. Since opening in 2017, the Premises have been refurbished over time and the food served tailored to appeal more to residents of Kemptown, as opposed to day trippers wanting typical seaside fair. A presentational brochure showing the development of the site with drawings of how it looks at present is included at **appendix 1**. The sole director of the Applicant is Jeffrey Sanders who was previously the operator of the Brighton Wheel from 2011 to 2016. He runs the business with the General Manager, Delso Da Silva.
2. The food and beverage offer includes an ice cream parlour, coffee kiosk and café/restaurant. The café/restaurant is a semi-permanent structure predominantly on the ground floor, comprising a kitchen with a main order/service point for food and drink, seating on the main deck area, a further pop-up kitchen and three W.Cs. There is also a recently constructed Sundeck area with a further smaller bar. Indicative food and drink menus at **appendix 2**. Before

the Covid-19 pandemic patrons queued to order food and drink which was then served to them by a waiter or waitress.

Reasons for Applying for Temporary Event Notices (“TENs”)

3. With no revenue following the shutdown of March 2020, the previous operator of the Premises, Happyvale Limited went into liquidation, albeit that Personal Guarantees remain. Fortunately, the Applicant was able to purchase the assets and continue the business with the same management team and fifty staff. Unfortunately, due to oversight and the employee responsible for the administration of the Applicant being on sick leave due to Long Covid, the premises licence was not preserved within the required 28 days and hence the premises licence permanently lapsed.
4. A permanent lapse of premises licence is devastating for any business. In the writer’s experience, this is usually the death warrant for any operator unless a negligence claim for thousands of pounds worth of damages can be quickly pursued and settled against an Insolvency Practitioner or there is the necessary insurance in place. The Applicant had neither of those options to recover its losses and has had to preserve cash flow and rely on what sales it can get to remain afloat. Usually, the restaurant is responsible for approximately half of total income.
5. Three TENs for 18 to 19 September, 25 to 26 September and 2 and 3 October were initially applied for on the terms of the previous premises licence. Following objection from Brighton Police (more of which below) at a licensing sub-committee hearing on 16 September the first two were rejected but the final one granted. The reason for refusing the first two was to give the Applicant sufficient time to prepare to reopen for the sale of alcohol. Preparation was undertaken and the weekend of 2 and 3 October proceeded without incident. Therefore, a further TEN was applied for to cover 9 and 10 October. To the Applicant’s disappointment, a phone call was received from Mr Mark Thorogood advising that the police would be objecting to this further TEN and hence it was withdrawn and legal advice sought.
6. Keystone Law was then instructed to apply for a new premises licence as soon as possible and, following correspondence with the police, one was made on 7 October 2021. The new premises licence sought is on slightly different terms to that granted in 2019. Most notable it is for a café style, as opposed to restaurant licence, where food must be always available with alcohol supplied by waiter or waitress service to patrons, but where patrons do not necessarily have to have a full table meal. Also, the terminal hour sought for the sale of alcohol is slightly later.

7. The reason for wanting a café licence, as opposed a restaurant licence, is twofold. Firstly, a full restaurant condition with the current setup of the Premises can be difficult to enforce. When customers order drinks to be served at a table, before their table number is recorded, they are always asked if food has been ordered and, when in doubt, a receipt is requested. However, not all customers keep receipts and hence it is very difficult to ensure that only customers taking a full table meal are purchasing alcohol. The fact that there is signage to this effect does not stop a customer misleading staff. Whilst staff do patrol the seating areas, it is difficult to tell who is waiting for food or has finished their meal.
8. Secondly, there remains confusion over what constitutes a table meal. There is case law under the old Licensing Act 1964 which, rather archaically, refers to pickles and beetroot and the like, but nothing under the Licensing Act 2003, hence the confusion last year with scotch eggs being referenced by Government ministers. Many patrons simply want a bowl of chips and the Applicant is, quite rightly, concerned that this may not be sufficient to be a table meal.
9. A café licence provides the necessary reassurance that the premises cannot become a vertical drinking alcohol led establishment which tend to be the main sources of crime and disorder whilst ensuring that the Premises can operate without fear of inadvertently breaching a condition. Having food and drink both ordered and served whilst seated at tables will increase staffing costs, but it is hoped that the additional flexibility will sufficiently increase revenue to cover these.
10. The additional hours sought are to enable the Premises to be financially viable and to ensure sufficient funds are saved to construct a permanent café at the site as per the granted planning permission (see above). It was always the intention to seek to vary the previous premises licence to a café style licence but it lapsed before an application could be made.
11. The TENs now applied for are to, hopefully, prove that the Applicant can operate under the new hours and conditions sought whilst upholding the licence objectives and to bring in some much-needed revenue during this difficult time.

Brighton Police Notice of Objection

12. The police's objection to these TENs is on the basis that: the new conditions will lead to intoxication; there have been previous breaches of condition; there is no confidence that the Premises will be run in a responsible manner; the conditions proffered are unenforceable and

the Halloween weekend presents additional concerns in respect of which minimal information has been provided. The Applicant's comments on each of these concerns are as follows:

The new conditions will lead to intoxication

13. If the TENs are granted as sought, the Applicant does not intend to change the style of operation significantly. The food and drink menu will remain the same but, with no patrons queuing to order food and drink, there will be a greater control of patrons. Additional conditions, above and beyond those on the lapsed premises licence, have also been proffered. It is not an attractive venue for those wishing to binge drink. Alcohol prices are not cheap, nor are there drinks promotions. Furthermore, the range of alcoholic drinks is limited and the open-air nature of the Premises does not lend itself to a long dwell time at this time of year. With no vertical drinking and waiter/waitress service only, the operation of the Premises will be a world away from the packed late-night bars which can see high levels of intoxication.
14. Crucially, off-sales have not been applied for and the Business and Planning Act 2020 deregulation does not apply. Therefore, the Applicant cannot have patrons spilling onto the beach as is the case with many of the licensed venues on the seafront.

Previous breaches of conditions

15. The Applicant has accepted that there were breaches of the lapsed premises licence's conditions and apologised repeatedly at the previous TENs hearing for them. Whilst it does not wish to make excuses for these breaches, there were mitigating factors, namely:
 - a) With the deregulating of off sales and the continued changes to Covid-19 regulations it was difficult to understand how alcohol should be sold, when a table meal condition applied and where this alcohol could be consumed. There were thousands of reported breaches across the country and much time was spent assessing whether operators were in breach of regulations or merely failing to adhere to non-enforceable guidance, if at all. Indeed, thousands more operators flagrantly breached the terms of their premises licence with no comeuppance at all. The Applicant did seek advice, for example, in respect of the new roof terrace, but this was often contradictory and its operation was far more limited than the majority of seafront licensed businesses which developed significant outside areas and are still benefitting from a significant uplift in trade.
 - b) When the breaches occurred, the Premises had only recently reopened after a long period of closure, hence a certain operational rustiness.

- c) August 2021 was an exceptional time as locals and tourists, deprived of foreign holidays, flocked to the seafront. Staff at the Premises were overwhelmed and failed to control who was, and was not, having food. Such demand is never likely to be repeated.

No confidence that the Premises will be run in a responsible manner

16. The police have confirmed that, had the previous premises licence not lapsed, the breaches of condition would have led to a 'stepped approach' with the Designated Premises Supervisor beginning called to a meeting with him. Usually, when there is a serious lack of confidence in management a review application follows, rather than simply a meeting being called. In reality, due to the much-maligned approach of the Licensing Act 2003 to insolvency, the Applicant is in the same position as if the premises licence had been reviewed and revoked. As the licensing sub-committee will be aware, premises licences are usually only revoked following serious crime such as shootings, stabbings, gang activity, open drug dealing etc.
17. The Applicant's team is booked to attend refresher licensing training (see confirmation at **appendix 3**) and all staff have been trained as per proposed condition 7.
18. Unless a series of TENs are granted there is no opportunity of the Applicant to show that it can operate in a responsible manner. The Applicant is happy to adopt further conditions and policies to reassure Brighton police and would welcome any proposals they have.

Conditions proffered are unenforceable

19. It is not acceptable that conditions attached to a TEN are unenforceable and merely advisory. Any breach of a condition attached to a TEN is carrying on a licensable activity on, or from, a premises otherwise than under and in accordance with an authorisation (see section 136 Licensing Act 2003) which is a criminal offence.
20. In addition, any failure to operate according to the conditions attached to any TEN will no doubt be used in evidence at any hearing to determine the application for the new premises licence.

Halloween weekend presents additional concerns

21. The Applicant is aware that Halloween weekend is busy in Brighton. Whilst revellers are generally attracted to the later, noisier, indoor bars and clubs, this weekend has been risk assessed (please see **appendix 4**) and the decision has been taken to employ two door supervisors from 19:00 to midnight if the TEN is permitted to go ahead.

22. Furthermore, as per proposed condition 10, a draft crowd management procedure/dispersal policy has been prepared for approval by Brighton police. Please see **appendix 5**.
23. If Brighton police still consider that further steps have to be taken over Halloween the Applicant would be happy to discuss them.

Section 182 Guidance (the “Guidance”) & Statement of Licensing Policy (the “Policy”)

24. The Guidance explains that ‘the system of permitted temporary activities is intended as a light touch process (author’s emphasis) and this is reiterated in the Policy. As the licensing sub-committee will be aware, the vast majority of TENs proceed unopposed.
25. The Applicant understands the Premises is located in a Cumulative Impact Zone. However, this policy applies to new, or variations to, premises licences or club premises certificates, not TENs. If representations are received to the application for a new premises licence the Applicant will produce evidence of exceptional circumstances including, but not limited to: corporate social responsibility; community support; the ancillary nature of alcohol to other business activity and the general style of operation.

Conclusion

26. The Applicant recognises that the licensing sub-committee hearing to determine these TENs is entirely separate from any further hearing to determine the application for a new premises licence if representations are received. The licensing sub-committee is perfectly entitled to grant the TENs as sought but then refuse the application for the new premises licence or grant it in part. However, without the ability to use TENs the Applicant has no opportunity to show that it can uphold the licensing objectives with the new conditions proposed or to realise some much-needed revenue. With regard to the later, the loss of the premises licence has been truly disastrous and many operators faced with such a shock would have thrown in the towel, closed the business and made the staff redundant.
27. These economic factors can properly be considered in a licensing determination. In R (o/a/o Hope and Glory Public House Ltd) v City of Westminster Magistrates’ Court and Others [2011] EWCA Civ 31, the Court of Appeal (per Toulson LJ) observed that [at 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.

28. It is accepted that mistakes have been made but lessons have been learnt. Save for the routine inspections last Summer, the Premises have not been a concern to the statutory authorities and its owner, Mr Jeffrey Sanders, ran the Brighton Wheel using a council premises licence for many years without complaint. The Applicant would like to work with the police and respectfully asks that the licensing sub-committee to grant the TENs to give the business a chance to succeed.

NIALL McCANN

Partner, Keystone Law

15 October 2021



THE ZIP

THE BRIGHTON ZIP
BRAND AND BUSINESS STRATEGY

HISTORY

The Brighton Zip has been operating since 2017. It is one of Brighton's major leisure offerings with over 25,000 riders a year. The zip is one of the few leisure activities that has a physical element to it. It consists not only of the zip wire itself but also the walk down the seafront to The Zip Base camp, this has two benefits one is the additional exercise and the other is giving customers the opportunity to see other businesses and shop fronts on the return walk. The site has been operated by the same person prior to Brighton Zip since 2011. The Zip operator was also responsible for bringing Brighton wheel to the seafront, a big attraction and a huge investment to the city which brought hundreds of jobs over the years, and raised Madeira Drive's profile in Brighton with both with tourists and residents alike. During this time they worked closely with BHCC's to pass the wheel through planning and were allowed to operate under BHCC own license to create VIP events and support charity evenings. This partnership was incredibly successful.

13 The Brighton Zip as a concept was born out of the need to use the site for leisure after the wheel was removed. The reason for its removal was partly due to the investment from BHCC in the I360. Once again, the operator regenerated the site and supplemented the leisure activity with a simple food court offering. They were approved for a premises license in April of 2019 and added alcohol offering to their food offering.

Brighton Zip are one of the few companies that have committed to being open throughout the winter. While not commercially profitable during the off season, it's has always been important to the local family business to provide year-round employment to their core staff.

The long-term plans for the site were to create a permanent restaurant to cater for the tourist trade near Brighton Pier. In essence this plan remains the same, but The Brighton Zip seek to approach the project in a different way to align the operation with the cultural needs and behaviour of the local people of Brighton and Hove and to manage the social responsibility and challenges COVID-19 has brought to business in the hospitality and leisure sector.





MADIERA DRIVE

It's been clear that Madeira Drive has suffered from neglect over the years, almost the forgotten stretch of seafront. Even with significant investment from historic operators like Brighton Zip, Concorde 2 and new operators, such as Loaded and The Electric Arcade the area has traditionally been a difficult place to operate, and very tourist focused. When the Covid-19 Pandemic hit it decimated businesses along the seafront from bars to restaurants, venues to leisure activities. The damage to these businesses and major employers runs deep and regardless of the support and schemes it has put business back for years, leaving companies carrying huge amounts of debt. Even with a cultural feel that the worst is over these businesses will carry damages far into the future and income is not by any means back to pre-pandemic levels.

There was one significant change to Madeira drive, the pedestrianisation of the road for additional exercise space during the Lockdown. Locals began to discover a part of their seafront they had not considered regularly visiting before. This derelict forgotten part of the seafront began to show signs of growth and innovation, alongside the changes and reduction in visiting tourists.

It is this that has triggered Brighton Zip to once again regenerate and refocus its business at local residents. Brighton Zip is a family business who have lived in Brighton for the past 30 years. Graphite Design has been contacted to help develop this new concept and reach more local audiences.

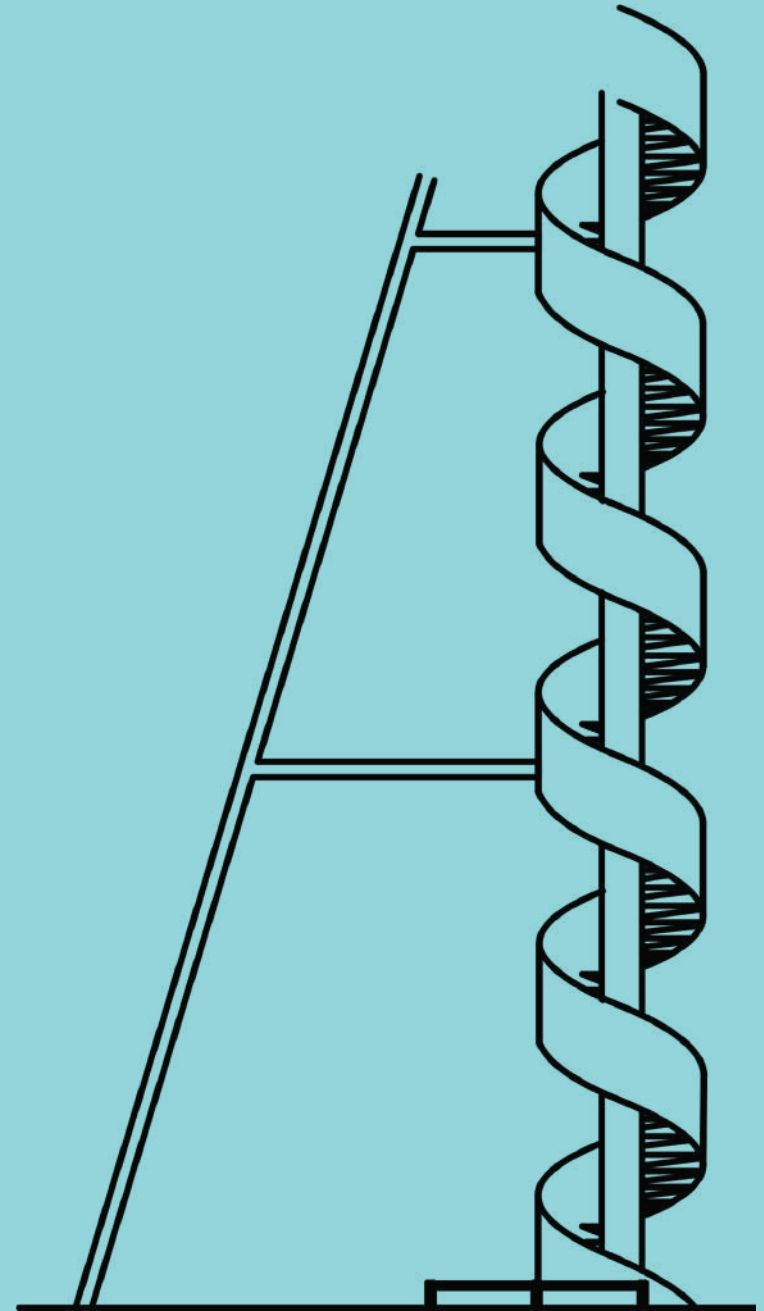
THE BRIEF

Brighton Zip wants to create a new hub for local residents, families, foodies and adventure seekers. They want to tap into Brighton's love for pop up - local food, local beer, and the love of socialising. They want to bring the traditions that local Brightonians all love about being a seaside town, while moving away from the traditional 'kiss me quick' and 'fish and chip' offering. Knowing that investment in indoor dining is incredibly risky at the moment they want to create a vibrant outdoor environment with a food and activity focus that local people can enjoy all year round.

GOALS

- + Site redevelopment to engage local audiences.
- + Update branding to be modern, clean and more accessible.
- + New food with pop-up options and kitchen takeovers.
- + New local coffee offering.
- + Venue for local artists, charities and kitchens.
- + Make the ZIP Deck + WIRE a year-round operation.

**BRIGHTON ZIP THE NEW
PLACE TO MEET.**



THE STRATEGY

SITE

Re-Style the ZIP deck, to integrate with the local audiences more.

- + Clean and remove cluttered signage
- + Create a strong colour pallet that brings a mix of the tradition seafront styling with the new bolder colour choice
- + Bring the zip and the food court together to feel like one cohesive operation
- + Create an original asset to the site for local people to enjoy
- + Tidy the visuals and operational bar and kitchen elements
- + Make the coffee shop a more accessible unit that relates to the site
- + Create a clear entrance and brand for the site.
- + Install signage that give the space a title 'The Zip Deck'

BRANDING

Create one clean brand across the whole operation and communication platforms.

- + Update logo
- + Create basic brand guidelines and follow them through all arms of the company
- + Tie the site clearly to the branding
- + Make a strong brand presence across the site
- + Make relationships with other brands that supports Brighton Zips goals
- + Make enviromentally friendly choices in all branding activations

PARTNERSHIPS

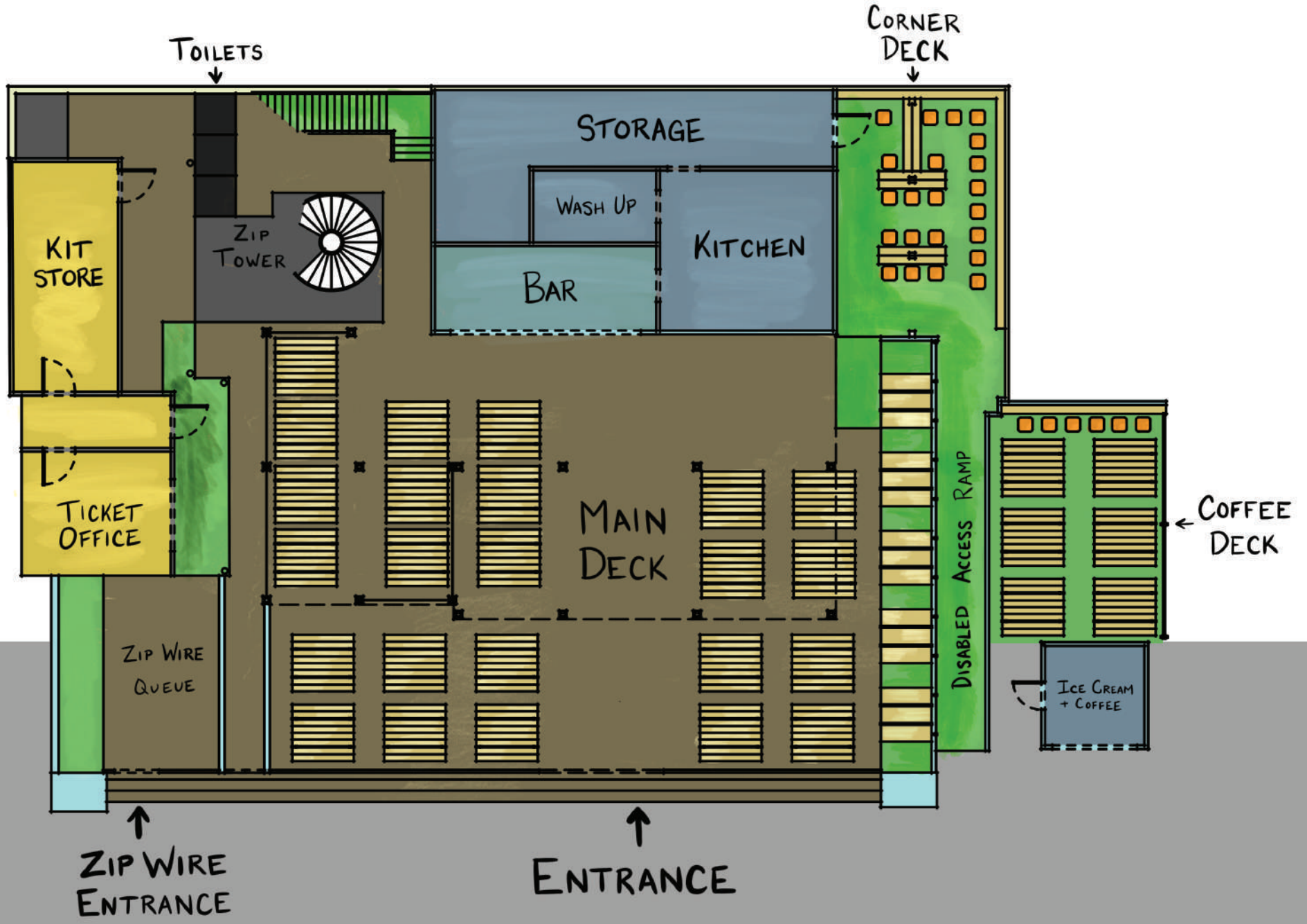
Work with other Brighton businesses in collaboration to create great experiences for customers.

- + Bring in a local coffee company Red Roaster to provide training for staff, a better quality product and a trusted local brand
- + Connect with Street. Diner a local street food market and stall broker to provide local food offerings through their contacts
- + Connect with local venues and festivals to engage in existing events providing space for activations such as screenings, receptions and small-scale performances
- + Develop a relationship through previously mentioned activity with local Brighton audiences to create a year round non-seasonal business

THE BEST SUNSET IN BRIGHTON
ALL YEAR ROUND.

SITE LAYOUT PROPOSALS

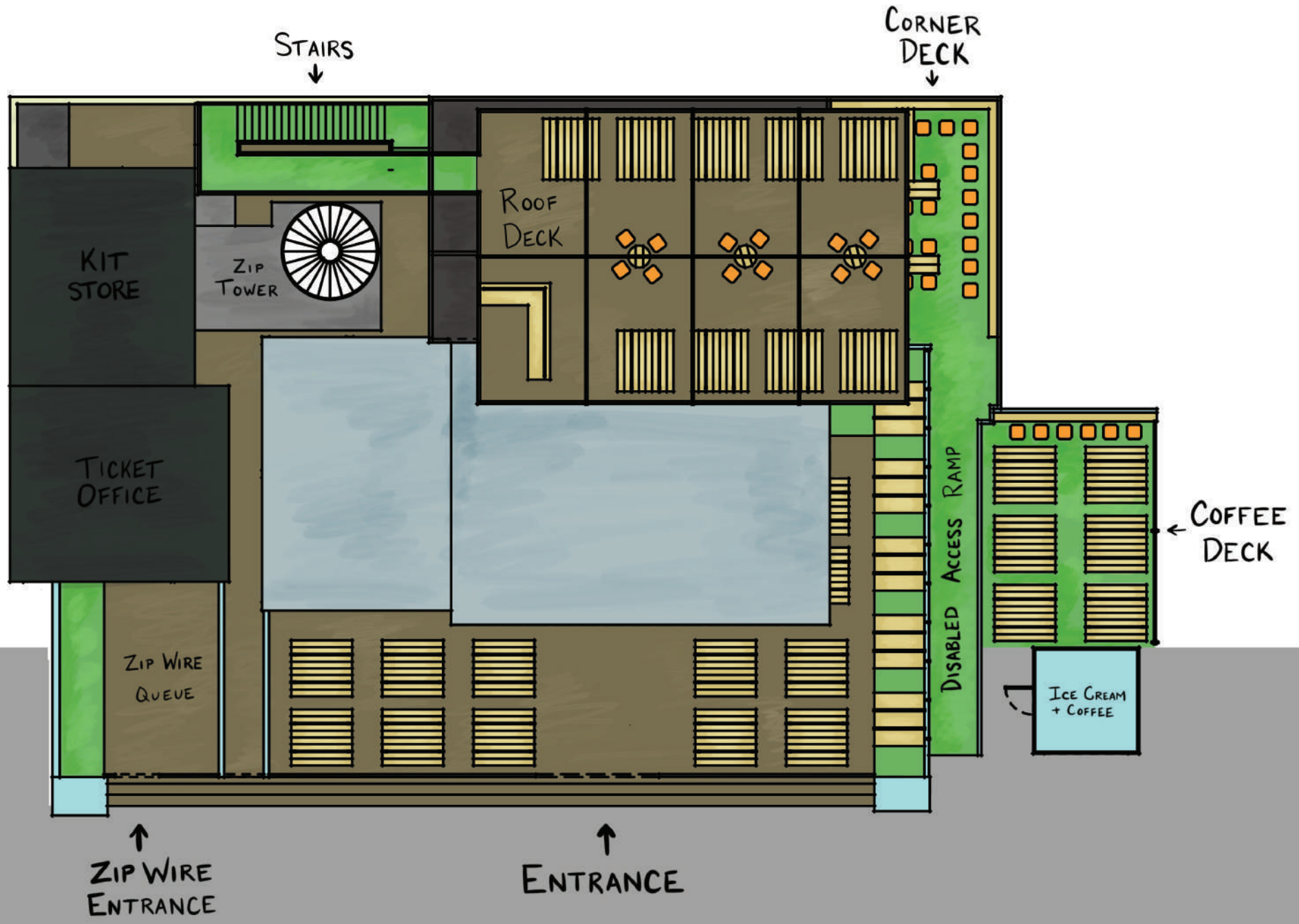
GROUND FLOOR



18

ROOF DECK

19



SKETCH CONCEPT



THE ZIP

PRICE LIST

ZIP WIRE

SINGLE RIDER _____ £16
DUAL RIDER _____ £30

VIDEO WRIST BAND

RECORD YOUR TRIP _____ £3

WWW.BRIGHTONZIP.COM

ENTRANCE

KIT DROP

THE ZIP BAR + KITCHEN

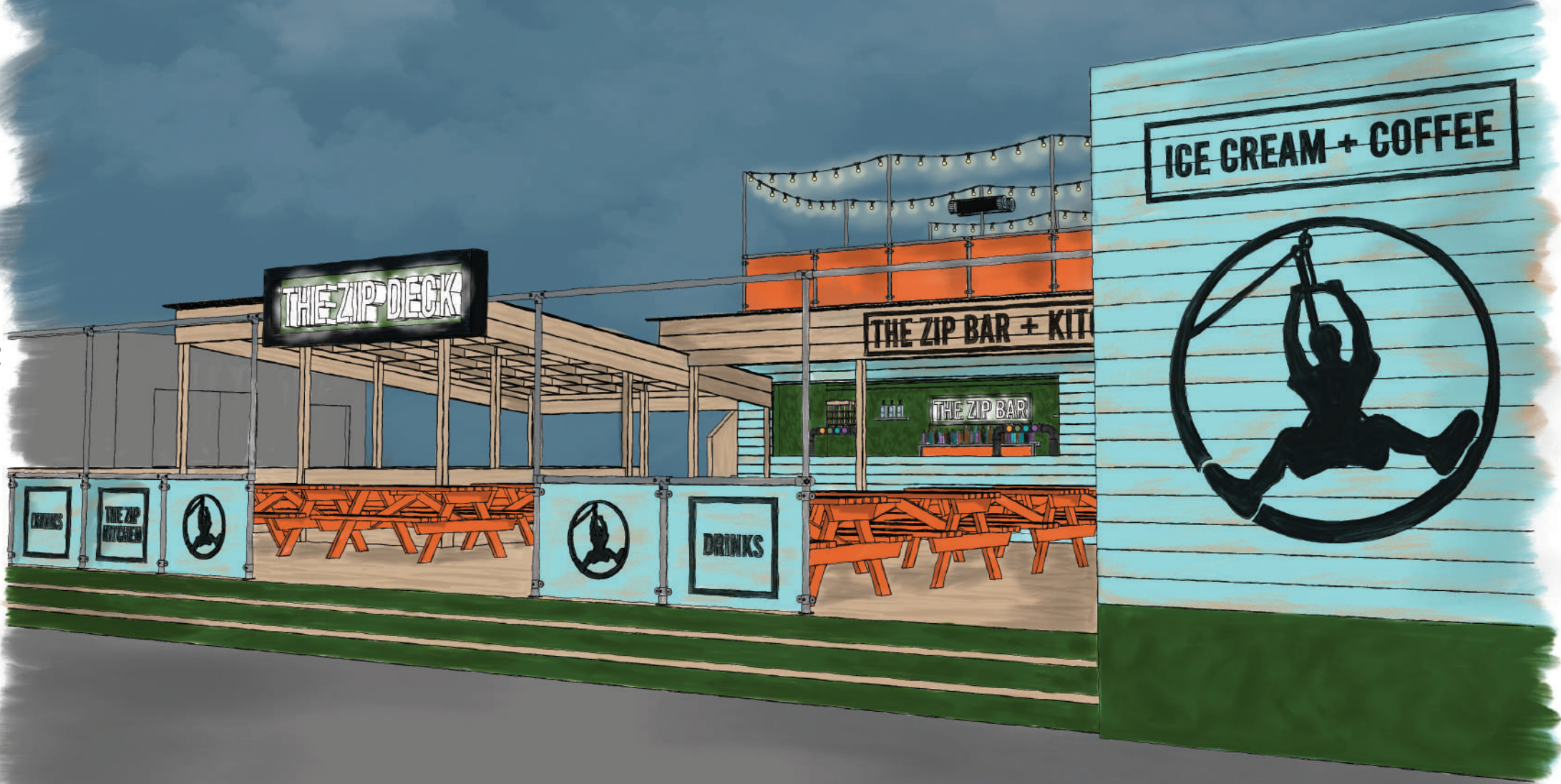


**THE ZIP
KITCHEN**

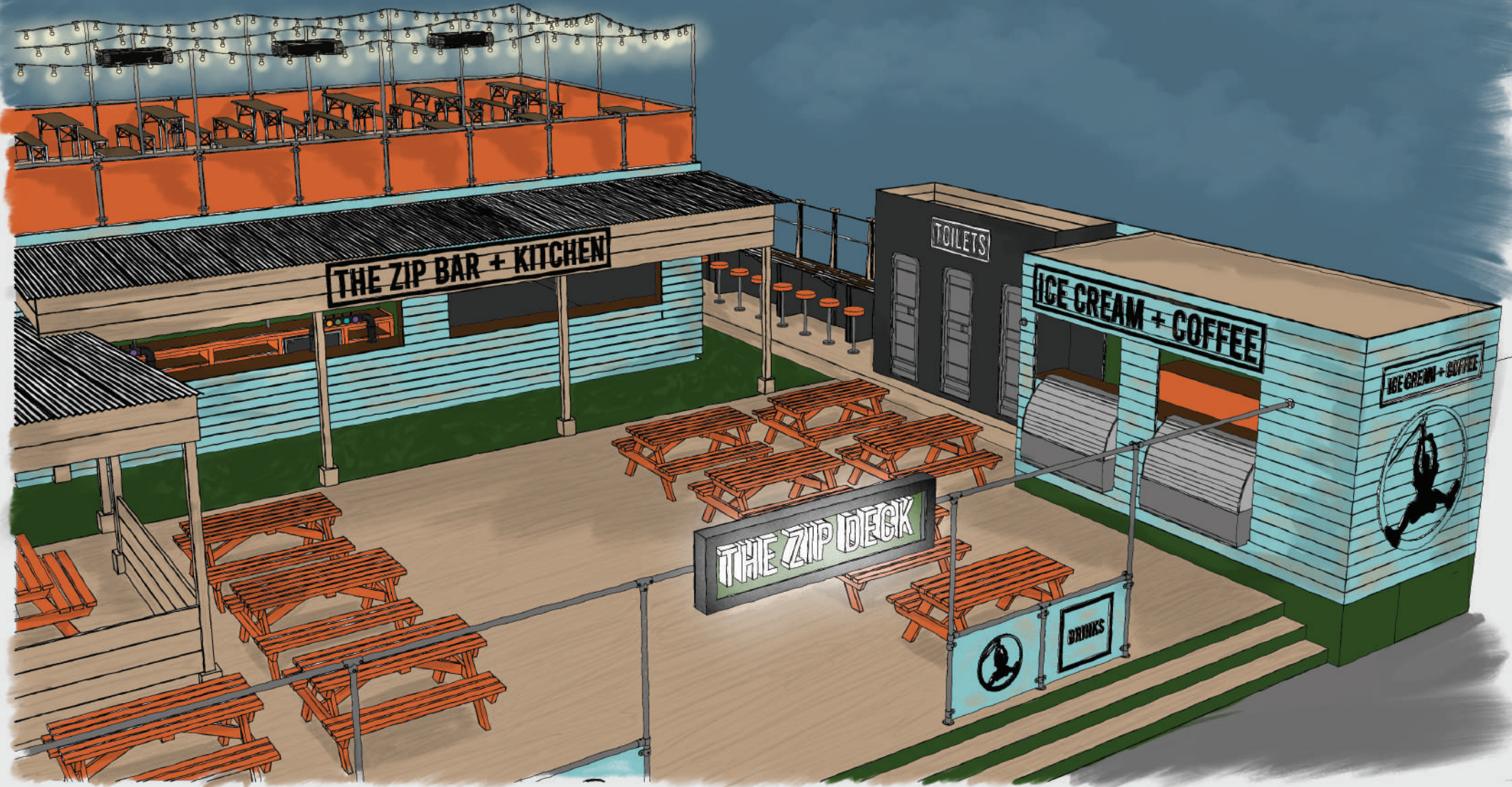
**FISH
+
CHIPS**

SKETCH CONCEPT

21

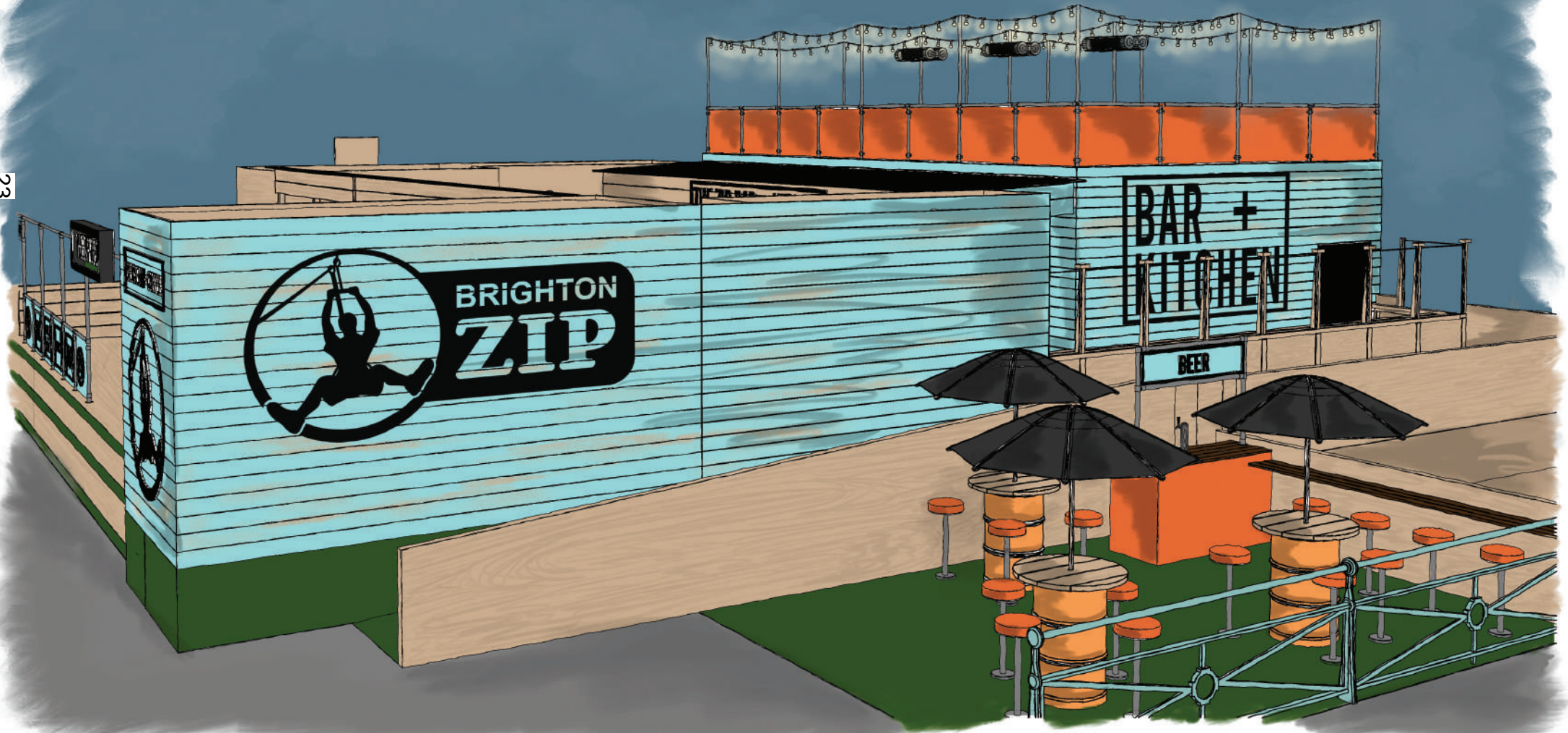


SKETCH CONCEPT



SKETCH CONCEPT

23








BRAND PROPOSALS

BRANDING STYLE PROPOSAL

- + Black and white versions of the logo on Brighton Blue
- + All signs hand painted instead of printed
- + Single font, taken from current branding "Bebas"
- + Single simple box around titles
- + All titles in block capitals
- + The use of + symbol instead of the word 'and' or '&' In titles.

COLOUR PALETTE

	TEXT AND LOGO COLOUR
	TEXT AND LOGO COLOUR
	PRIMARY COLOUR
	ACCENT COLOUR
	ACCENT COLOUR

OLD LOGO

The old Brighton Zip logo, has become dated over time and needs modernising. Taking the multiple font styles and removing alot of the colour will help clean the logo.



NEW LOGO

The new Brighton Zip logo creates a modern silhouette of the old logo design. By simplifying the mutli-colour branding to a high-contrast, monochrome palette, it turns what was once a logo into an icon - a recognisable symbol that can be used in many applications, from packaging, to signage, and t-shirts.



THE ZIP

PACKAGING

Update the Brighton Zip packaging to reflect the new brand and style guidelines.

Replace plasticware for sustainable materials that can be easily recycled and are biodegradable.

Replace multi-colour boxes with simple kraft boxes, so all packaging has a cohesive look.



- + BROWN KRAFT BOXES
- + RECYCLABLE, BIODEGRADABLE COFFEE CUPS
- + RECYCLABLE, BIODEGRADABLE PINT CUPS
- + BIODEGRADABLE BAMBOO CUTLERY
- + STAMPED WITH ZIP LOGO

UPDATES SEPTEMBER 2021

BEFORE



AFTER



28



BEFORE



AFTER

BEFORE



AFTER

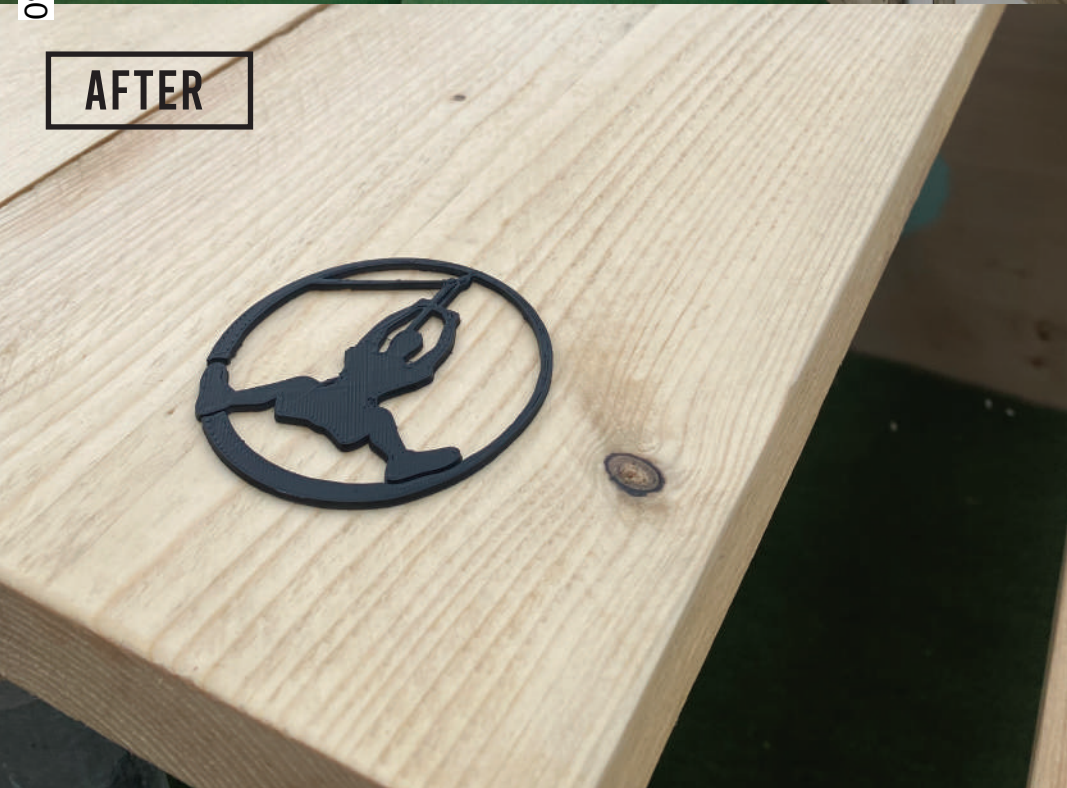


AFTER





30



BEFORE



AFTER



31



AFTER



APPENDIX 2



BAR + FOOD

CLASSICS

ALL SERVED WITH CHIPS

COD + MUSHY PEAS _____	8.20
JUMBO SAUSAGE _____	5.60
SAVELOY _____	5.60
CHICKEN NUGGETS _____	6.80
SCAMPI _____	7.50
CHIPS _____	3.00
MUSHY PEAS _____	1.00
CURRY SAUCE _____	1.00

DIPPING SAUCES

BBQ _____	1.00
AMERICAN MUSTARD _____	1.00
SWEET CHILLI _____	1.00
BURGER RELISH _____	1.00
BURGER SAUCE _____	1.00

BURGERS

ALL SERVED WITH CHIPS

ZIP BURGER _____	6.60
ZIP BURGER WITH CHEESE _____	7.10
MEGA ZIP BURGER WITH CHEESE AND BACON _____	8.10
ZIP CHICKEN BURGER _____	6.60
ZIP CHICKEN BURGER WITH CHEESE _____	7.10
VEGGIE ZIP BURGER _____	5.50

BREAKFAST

SERVED UNTIL 12PM

BACON + EGG BAP _____	4.50
BACON BAP _____	3.50
EGG BAP _____	2.50



WINE MENU

WHITE

125ML / 175ML / 250ML / BOTTLE

DOMAINE DE PELLEHAUT, BLANC

STRIKINGLY AROMATIC WITH STUNNING INTENSITY OF CITRUS FRUIT AND WHITE BLOSSOM

3.90 / 5.00 / 7.50 / 23

PINOT GRIGIO, PRIMI SOLI

DRY, CRISP AND FRUITY WITH A WONDERFUL HINT OF LEMON

4.00 / 5.60 / 8.00 / 24

SAUVIGNON BLANC, WADDLING DUCK

A NOSE OF INTENSE, FRESH GOOSEBERRY FRUIT. THE PALATE IS DRY AND FULL OF WHITE PEACH

4.50 / 6.00 / 8.50 / 27

ROSE

DOMAINE DE PELLEHAUT, ROSÉ

AROMATIC AND EASY-DRINKING WITH A REFRESHING INTENSITY OF STRAWBERRIES AND RASPBERRIES

3.90 / 5.00 / 7.50 / 23

CÔTES DE PROVENCE ROSÉ, QUINSON

A DREAMY SOFT PINK COLOUR. ELEGANT AND FINE FLAVOURED RED BERRIES WITH A HINT OF SPICE

26

RED

DOMAINE DE PELLEHAUT, ROUGE

A MEDIUM BODIED BLENDED RED WITH AUTUMN BERRY FRUITS AND A SILKY SMOOTH STRENGTH

3.90 / 5.00 / 7.50 / 23

MALBEC, LOS HAROLDOS CHACABUGO

SILKY SMOOTH FLAVOURS OF DAMSON AND BLACK FRUIT WITH WONDERFUL CONCENTRATION.

4.00 / 5.60 / 8.00 / 24

MERLOT THE MUSEUM, FRANSCHHOEK CELLARS

JUICY DARK BERRY FLAVOURS AND BLACK CHERRY NUANCES, SLEEK AND SMOOTH

4.00 / 5.50 / 8.00 / 23.50

SPARKLING

PROSECCO, CA BOLANI BRUT DOC

PLEASANTLY FRUITY AND WITH A GOOD AROMATIC INTENSITY, RECALLS WISTERIA FLOWERS AND RENNET APPLES. HARMONIOUS AND PLEASANT WITH A HINT OF SWEET ALMOND

4.20 / / / 25

RATHFINNY CUVEE

THE SUSSEX, VINTAGE CLASSIC, MADE IN A SINGLE SITE VINEYARD AND AGED FOR 36 MONTHS IN THE BOTTLE

45



BAR

DRAUGHT

PINT / HALF

OFFSHORE PILSNER _____	5.50 / 2.80
ATLANTIC PALE ALE _____	5.50 / 2.80
PRAVHA LAGER _____	5.00 / 2.60
ASPALL CIDER _____	4.80 / 2.60

HOUSE SPIRITS

25ML / 50ML

SMIRNOFF VODKA _____	3.80 / 4.80
HAVANA CLUB 3YO _____	3.80 / 4.80
HAVANA ESPECIAL _____	3.80 / 4.80
JACK DANIEL'S WHISKY _____	3.80 / 4.80
GORDON'S GIN _____	3.80 / 4.80

BOTTLES

CORONA EXTRA _____	5.00
BIRRA MORETTI _____	4.00
NON ALCOHOLIC BEER _____	4.00
REKORDERLIG STRAWBERRY + LIME _____	6.50
REKORDERLIG WILD BERRY _____	6.50
REKORDERLIG PASSION FRUIT _____	6.50

CRAFT CANS ARE ALSO AVAILABLE AT THE BAR

SPIRITS

25ML / 50ML

GREY GOOSE VODKA _____	5.50 / 8.00
HAVANA 7 YEAR _____	5.00 / 8.00
HAVANA CUBAN SPICED _____	4.20 / 6.20
GORDON'S FLAVOURED GIN _____	3.80 / 5.80
TANQUARAY GIN _____	4.20 / 6.50
WHITLEY NEILS GIN _____	4.20 / 6.70
BRIGHTON GIN _____	5.00 / 7.50
MALIBU COCONUT RUM _____	3.80 / 5.80
MALIBU FLAVOURED RUM _____	3.80 / 5.80
KRAKEN RUM _____	3.80 / 5.80
BELL'S SCOTCH _____	3.80 / 5.80
MIXER _____	1.20
FEVER TREE MIXER _____	2.20 BOTTLE

APEROL SPRITZ _____	8.00 GLASS
PIMMS _____	6.50 GLASS

GOLD TEQUILA _____	4.00
SAMBUCA BLANCO WHITE _____	4.00
SAMBUCA ANTIGUA BLACK _____	4.00
TUACA _____	4.00
CAZCABEL HONEY _____	4.00
CAZCABEL COFFEE _____	4.00

**INN Dispensable**

Unit 45, BasePoint Centre, Waterlooville, PO7 7TH

Telephone:
02392345679VAT Number
GB 750186636

Customer Brighton Zip Wire	Reference
Invoice Number SI-1175	Invoice Date 15/10/2021
Invoice Address Madeira Drive Brighton BN2 1TB	Delivery Address Madeira Drive Brighton BN2 1TB

Description	Qty	Price	Net Amount	% VAT	VAT	Total (£)
Trainer Fees (Day Rate)	1.00	350.00	350.00	20.00	70.00	420.00
ARAR Exam Fee (ARAR Exam)	6.00	20.00	120.00	20.00	24.00	144.00
DPS Exam Fee (DPS Exam)	1.00	50.00	50.00	20.00	10.00	60.00

Net Amount 520.00 (£)	VAT Amount 104.00 (£)	Total 624.00 (£)
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VAT Rate	Net (£)	VAT (£)	Total (£)
Standard 20.00%	520.00	104.00	624.00

Notes ARAR & DPS Training Course 2 November 2021
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Terms and Conditions TERMS: Paid with thanks Bank details Nat West Sort Code: 55-70-34 Account No: 16265386 Account Name: Inn-Dispensable BS Ltd

APPENDIX 4

OCTOBER 30th + 31st Weekend
SIA 7pm – 12am

What are the hazards?	Who might be harmed and how?	What are you already doing?	What further action is necessary?	Action by who?	Done
Violence, threatening behaviour, verbal abuse	Staff and the public risk confrontation, being offended and or seriously injured if assaulted or if caught up in fighting.	<ul style="list-style-type: none"> ▪ Staff trained to spot potential trouble makers, defuse tense situations etc. ▪ Adequate number of trained, SIA badged security staff (x2). ▪ Staff trained in procedures re-entry, queuing, etc and quiet signs displayed for public. ▪ Information sharing with police and other security staff at licensed premises in the area. ▪ CCTV system is in place and recordable for several months. ▪ Walkie-talkie system allows bar staff to talk to security staff – BCRP. ▪ Controlling numbers of customers entering. ▪ Security staff aware of all exits. ▪ Drinks not served to people obviously under the influence ▪ Glass collectors used. ▪ Dispersal policy in place. 	<ul style="list-style-type: none"> ■ No further action at this stage. 	General Manager. X2 SIA to be employed	
Underage Drinking	Those under 18 years of age Adolescents who are drinkers are more likely to have conduct disorders	<ul style="list-style-type: none"> ▪ Staff to ID all those who look under 25 (Challenge 25 policy) ▪ Staff to watch out for suspicious activity or groups 	<ul style="list-style-type: none"> ■ Ensure staff are all aware of our policies in training and know what to look out for 	Staff Manager	Done

	<p>Children may attempt to buy alcohol from the site</p> <p>If they have been illegally drinking on the beach, there is risk of harm or injury to the adolescents</p>	<ul style="list-style-type: none"> ▪ The amount of drinks each person will buy will be monitored ▪ 2 SIA available for back up 	<ul style="list-style-type: none"> ■ Extensive alcohol training is implemented for all staff who are hoping to work behind the bar 		
Aggravated Behaviour	<p>Based upon Halloween fuelled behaviour, scare antics and otherwise</p> <p>Staff and public risk of people's aggravated behaviour if Halloween pranks are subject to the site by individuals aka scare tactics</p> <p>Drunkenness heightened in individuals due to it being a celebratory event in the year</p>	<ul style="list-style-type: none"> ▪ Staff briefed and prepared on the potential risks of aggravated behaviour ▪ SIA patrolling the site throughout the evening for an extra level of protection ▪ No selling to drunk or disorderly people ▪ Ensuring table meals are available at all hours ▪ Have a staff policy of gathering a supervisor or manager if anyone feels even slightly threatened 	<ul style="list-style-type: none"> ■ Ensure staff are all aware of our policies in training and know what to look out for ■ Extensive alcohol training is prematurely implemented for all staff who are hoping to work behind the bar 	Staff Manager	Done
Dispersal Control	<p>Staff risk confrontation and being offended on dispersal of the property.</p> <p>Queues may gather if all tables were busy and were leaving at the dispersal time announced.</p>	<ul style="list-style-type: none"> ▪ Glass collectors used ▪ Dispersal policy in place ▪ SIA to control dispersal on requested TENS ▪ Walkie-talkie system allows bar staff to talk to security staff - BCRP ▪ Overcrowding not permitted in any area. 	<ul style="list-style-type: none"> ■ All staff are trained and briefed on the new table service systems and waitress service ordering, in order to prevent queuing of any sort and or crowd ■ Crowds are avoided by having a no vertical drinking policy in place 	Staff Manager	Done

		<ul style="list-style-type: none"> ▪ Security staff aware of all exits. ▪ All orders are waitress service only to control queuing 			
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All staff policy on any violence, threatening behaviour, verbal abuse presented to them within the site is that they seek immediate support from a DPS, Supervisor and or Management. A BCRP Scheme is in place if further back up is required. Having two SIA doorman on site for events such as this means that there is instantly less risk of disruption and or harm to be caused. Our SIA Doormen will be on site between 7pm – 12pm.

Dispersal Policy for The Brighton Zipwire

Introduction and Definition

Madeira Leisure Ltd is committed to providing the best experience for all visitors to The Brighton Zip, but we are also committed to the undertakings that we have made to our neighbours. The same operators have managed the current site for over 11 years and we are acutely aware of the importance of ensuring, as far as possible, that customers leave quietly. We understand that our proximity to residential properties and the nearby beach makes the orderly and safe dispersal of our customers of great importance.

We need to manage our outside spaces and our audience's interaction with local people during our trading hours. We will ensure that there is suitable training for all our staff, and particularly our Front of House staff and our management team, so that we can adequately manage and control customers when arriving, whilst they are with us during their stay and when they are leaving the building. We will operate this Dispersal Policy to assist in the promotion of our Licensing Objectives, and to help address any matters of concern, so that we can minimise our impact on the neighbourhood in relation to potential nuisance and anti-social behaviour. This will be achieved by exercising pro-active measures towards and at the end of the evening.

The Dispersal Procedure has been formulated by the local management in conjunction with senior representatives of the unit. It will be discussed with the licensing officers of the local council and police and in place prior upon implementation.

The Dispersal Procedure is subject to review and will address problems and concerns as they are identified in order to establish a permanent reduction or elimination.

For the avoidance of doubt a vulnerable person is defined as:

“Anyone exposed to the possibility of being attacked or harmed, either physically or emotionally or of taking action that could cause themselves harm”

Venue Dispersal and Direction of Footfall

In the event of venue dispersal, either at the end of nightly session or in the event of a power cut for example all patrons will be guided to the front door of the venue located on Madeira Drive. The management team and security team will carry out checks after the dispersal / egress throughout all areas of the venue to ensure no members of the public remains on the premises.

The security team at the front of the venue will guide customers away from the front doors and down Madeira Drive towards the pier, away from residential areas, asking customers to keep the noise to a minimum and assist customers getting taxis if required.

End of Evening Operational Policies:

1. Calling last orders such that there is adequate drinking-up time. This will help with the gradual dispersal of any audience remaining at the end of a normal trading day.
2. Staff encouraging customers to finish their drinks and prepare to leave in plenty of time, as well as discouraging customers from congregating outside the venue, and making plans for finishing group conversations prior to leaving. Staff will also encourage audience members and customers to disperse on their chosen route home as quickly and quietly as possible.
3. Adequate signage letting audience members know that they should respect our neighbours and users of the local area when leaving the building.
4. Customers will be directed by staff towards the main entrance and exit on Madeira Drive unless the disability ramp is needed in which patrons will be redirected, as this will be the primary access into or to exit the building after 11:00pm.
5. Promote safety on leaving and encourage people to wait inside the site parameter for a taxi. We will also communicate with local firms to agree an operating policy and the best pick up points for minimal disruption.

6. The Brighton Zip does not have any audience parking spaces and we will advise all customers not to drive or park in the surrounding areas due to it being designated as mostly a cycle lane as of 2021.
7. Signage and staff training will make it clear that customers will not be allowed to leave our premises with open drinks. This will be implemented by the bar supervisor on site, DPS and or SIA where applicable.
8. Weekly Operations Meetings will be in place to discuss any incidents in the previous week and planning for any expected large audiences or events that may need extra measures. This will also be to ensure that the management methods and the actions in this policy are working and having the desired effect.
9. Regular external patrols staff employed by The Brighton Zip will ensure that during opening hours there are no litter issues, or any unwanted gatherings in the immediate vicinity of the building.
10. External CCTV has already been installed to prevent nuisance and monitor activity in the area. Recordings are kept for over one month as required by the Police.

SIA Door Supervisors

We have developed practices which:

1. encourage customers to drink-up and progress to the exit within a venue throughout the latter part of drinking-up time;
2. ensure that for the period of 30 minutes after the premises closes, door staff where applicable, will be available in high visibility clothing, to assist the police patrol on Madeira Drive;
3. draw the attention of exiting customers to the notice on the exit panel and ask them to be considerate;

4. ensure the removal of all bottles and glasses from any customer who attempts to leave the venue carrying one. Bins will be positioned across the decking to encourage glasses/bottles to be thrown. However, this does not include plastic water bottles or J20;
5. actively encourage customers not to assemble on the decking or in the road;
6. direct customers to the nearest taxi ranks, or other transportation away from the area.

Taxi Rank & Car Parking

1. A taxi rank can be sourced over the Old Steine at East Street, the other being on Kings Road outside Burger King.
2. Assistance can be given to help allocate taxi's and or Ubers.

**INDEPENDENT EXPERT REPORT FOR
BRIGHTON AND HOVE CITY COUNCIL
LICENSING SUB-COMMITTEE**

**BRIGHTON ZIP
MADEIRA DRIVE, BRIGHTON, BN2 1EN**

By Andrew Bamber

Dated: 24TH NOVEMBER 2021

Executive summary

The venue used to operate with a premises licence until August this year when an administrative oversight resulted in the licence lapsing.

Other than a very minor breach of the licence conditions, which was dealt with immediately by way of a warning letter, no other data or problems have been cited by the Sussex Constabulary.

There was a clear issue with staffing when the hospitality industry reopened for business. The Covid NHS app quickly identified individuals who had been in contact with people who had contracted Covid. The requirement for people to immediately isolate when notified left the venue short of staff. This particular problem is well documented and businesses across the country suffered the same short notice operating problems.

Apart from the Covid induced staff shortages the venue has operated within the cumulative impact zone without incident. In recent months the venue has opened with a number of temporary event notices and there have been no issues.

The police highlight that the venue is applying for a 'new licence' in a cumulative impact zone, and they cite the crime and disorder and public safety objectives as areas of concern for them.

The police have not set out the necessity and/or proportionality of their decision to object. Whilst it is a new licence the venue has operated with a licence for several years. The police representation states that the Public Health Framework document, referenced as part of the objection, highlights alcohol related crime. However, the

author of the document is careful to point out that the data set does not highlight that all crime referred to is alcohol related. The representation also links police resourcing to the crime and disorder and public safety objectives. In my experience police resourcing has never been grounds to object to an application for a premises licence.

By not setting out the necessity and proportionality elements in support of the decision to object to the licence it does not appear that the factors in paragraph 65 have been given any consideration to provide balance to the decision.

If I were to consider this application in my previous roles, notwithstanding that the venue sits within the cumulative impact zone, I would have considered the areas highlighted in paragraph 65.

I would have concluded that the operators have not negatively impacted on the cumulative impact zone, or the four licensing objectives in the past, and more recently a number of temporary event notices have operated without a problem. The operating schedule takes account of best practice highlighted in the statement of licensing policy, and the venue operators/staff are more than adequately trained. This is supported by excellent record keeping. On balance, having considered all of the elements of the application, I would not have objected to the venue being reissued with a new licence.

1. Introduction

2. I have been asked by Mr Niall McCann of Keystone Law to risk assess an application for a premises licence for the Brighton Zip, Madeira Drive, Brighton, BN2 1EN

3. My assessment is completely independent of my instructing solicitor and the owners and the managers of the venue. I have no personal involvement with the business nor any other business or resident in the area.
4. I am able to evaluate the operational environment based upon my considerable experience and qualifications. I can view the environment through several perspectives and make objective interpretations.
5. In brief I have been:
 - a licensing observation officer;
 - a divisional licensing Inspector in a busy and challenging London Borough;
 - the operations Chief Inspector responsible for policing Mayfair and Soho;
 - the operations manager for the central London Clubs and Vice unit with responsibility for the night-time economy;
 - a Detective Chief Inspector managing divisional crime investigations;
 - a Detective Superintendent (senior investigating Officer);
 - a Borough Commander responsible for developing and delivering local policing plans that include the night-time economy challenges; and
 - as an Assistant Director, for 10 years, on a semi-inner London Borough I was responsible for the Safer Communities portfolio that included the development and delivery of the Partnership Community Safety Strategy. I was directly responsible for the Licensing function and the night-time economy, problem solving local crime and ASB hotspots, and the development and management of Licensing policies.
6. I acknowledge that as an expert witness my primary duty is to the Licensing Sub-Committee. All facts identified in this report are true to the best of my knowledge and experience. They were either witnessed or experienced by me personally or relayed to me in good faith and appear to be credible and reliable.

7. The opinions I have expressed within in this report are honestly held and correct to the best of my judgement and belief. My fee for preparing this report is not conditional on the opinions I have stated within or the eventual outcome of the case.
8. Prior to my assessment I was provided with:
- proposed conditions;
 - written submission for TEN's;
 - Brighton Zip presentation;
 - training invoices;
 - menus;
 - a risk assessment for the 30th-31st October 2021;
 - dispersal policy; and
 - a series of emails between the Brighton Zip's legal representative and the police licensing officer.
9. In addition to the document review I conducted a covert assessment of the area and the operation of the venue. At the end of my assessment, I entered the venue and introduced myself and interviewed Redacted and Redacted. During the interview, I questioned them about the venue, its operation and customer profile, potential licence conditions and their licensing responsibilities. I inspected their training documentation/records and qualifications, a risk assessment, dispersal policy, menus, incident log and refusals log.
- 10. Representation of Sussex Police**
11. I am aware that Sussex Police have submitted a representation objecting to the granting of a new licence for the venue. The representation highlights:

- the cumulative impact area;
- that it is a new licence;
- the previous licence conditions;
- police resourcing;
- minor breaches of the previous licence (but not that the matter had been dispensed with by a warning letter); and
- that Queens Park Ward is ranked 3rd highest out of 21 wards for police recorded *alcohol related incidents*. However, in the opening paragraphs of the framework report the author highlights that not all crimes will be associated with alcohol *“It is important to note that the Police crime statistics used in this report are proxy indicators for alcohol related crime and will not all be alcohol related. These crime types have been chosen as they are most likely to be associated with alcohol”*.

12. **Visit (Saturday 6th November 2021)**

13. My visit to the area was dictated by the operation of a temporary event notice on a Saturday evening - the Guy Fawkes weekend.
14. I arrived in Brighton at 3pm so that I could assess the late afternoon environment of the Brighton Zip through to the late evening.
15. I initially walked the sea front, walking from the west past the British Airways i360 and beyond the pier, along Madeira Drive and past the Brighton Zip. I then walked back along Marine Parade and walked around The Lanes.
16. I gained the impression that the main area for licensed premises was north of Kings Road/Grand Junction Road and to the west of the pier. The area to the east of the pier

along Madeira Drive, Marine Parade and the streets running north from Marine Parade had relatively few licensed venues.

17. Having walked around the area I focused my attention on the Brighton Zip in Madeira Drive to the east of the pier.
18. Madeira Drive was closed off and there was a barrier system preventing vehicle access and the barriers ran some distance along each side of Madeira Drive.
19. The café area of the Brighton Zip sits at the base of the zip wire structure. It is on the south side of Madeira Drive and is a slightly elevated platform between the pavement and the beach. The café area is set out to tables, with a bar and kitchen to the rear of the venue (the beach side) as you step up onto the platform. Sitting in the café area you cannot see the beach; the only view is Madeira Drive, save for from a small roof terrace
20. The café area is covered but it is completely open on the west and north sides. The east side is partially closed to the elements and the south side contains the bar and kitchen.
21. Below the Zip Wire café is another bar unconnected to the zip wire complex. This bar sits at beach level, is open to the beach and has a significant number of tables set out along the beach front.
22. The following table sets out the times that I watched the Zip Wire restaurant/bar and the number of customers that were present.

Saturday the 6 th November 2021	
Times	Customers
16.30	Nil

17.00	Nil
17.30	Nil
18.00	Nil
18.30	Nil
19.30	6 adults and 1 child
20.00	5 adults
20.10	7 adults

23. On each occasion that I watched the venue the customers entered and walked to the café area and after a short conversation they were shown to a table where they sat and ordered either a drink or a meal or both. On each occasion service was provided at the table by a member of staff.
24. Just after 20.00 I entered the venue where the 7 adults were seated. I walked to the kitchen bar where 2 members of staff were standing, I introduced myself and asked to see either the manager or owner of the venue.
25. As I waited, I noticed several dog bowls on the floor around the venue and I could see a number of well-placed signs highlighting challenge 25 and that service is solely by waitress/waiter.



26. After about 10 minutes I was joined by a Redacted and Redacted.

27. During our conversation they explained the administration failure that resulted in the licence lapsing.
28. Redacted explained that at the time she was the new retail operations manager and explained that she had devised new a menu for the venue but was unaware of the requirement to have the menu printed with the table service condition on them.
29. At the meeting on the 12th August when this minor breach was pointed out she immediately reordered new menus. The paper and printing requirements meant that there was a 2-week lead in before they could be used. She pointed that she did not ignore the guidance given by the officer and set about rectifying the mistake immediately by placing the new order. Appreciating the delay, she printed up table notices with the condition so that customers would immediately know the requirement to order from the table.

**THE PURCHASE OF
ALCOHOL IS ONLY
ALLOWED AS AN
ANCILLARY TO
A TABLE MEAL AND
FOR CONSUMPTION
WHEN THEY ARE SEATED
AND WITHIN THE LOWER
DECKING AREA**

30. Both Redacted and Redacted explained the meeting that they had with a licensing officer on the 26th August 2021. It appears that plain clothes enforcement officers witnessed breaches of the licence conditions, where customers were seen being served alcohol from the bar and that they had not been served a meal.

31. Both explained the severe staff shortages that they had suddenly experienced due to Covid infections, the Covid app implications, and the Governments requirement that infected people, and those that had been in close contact with the infected person, must self-isolate immediately.
32. Like many other businesses across the country, they were trying to operate a business in extremely challenging, difficult, and unprecedented circumstances and that the operating environment changed rapidly.
33. I have seen a letter dated the 26th August, the same day as the meeting, sent by Mark Thorogood, a licensing officer from Sussex Police. It highlights that the matter was dispensed with immediately by way of a warning. The speed at which the warning letter was sent is an indication that the matter was not sufficiently serious enough to be dealt with any other way than by a warning.
34. That same day they received notification from the council that their premises licence had lapsed, and they immediately stopped trading.
35. Looking around the venue it was clear from the notices and the menus that the management of the venue had listened to the warning and had ensured that the notification to customers was very explicit.
36. Redacted then explained how she was re-engineering the ordering process. Staff now have handheld devices to order food and drink for customers and she is in the process of developing an ordering process where QR codes are used.
37. I then enquired about staff training and how management ensured strict compliance with the licence conditions.

38. They explained that 6 staff have now completed and passed the ARAR qualification, Level 1 Award in Responsible Alcohol Retailing (04/11/2021).
39. Redacted is APLH Qualified as of 23rd September 2021 and in the process of obtaining her personal licence.
40. The running manager is a personal licence holder.
41. Redacted is a personal licence holder and the DPS for the venue. He is booked to refresh his qualifications on 15th November 2021.
42. Sitting alongside the nationally recognised courses the company have their own training PowerPoint created and delivered by a training consultancy.
43. Before any staff member is allowed to prepare or sell drinks they must complete a 1-1 training session with the DPS or a trainer with a APLH 2021 qualification, the 1-1 session is supported by the training consultancy alcohol training PowerPoint.
44. At the conclusion of the training session the individual must then independently pass a 14-question test. If any questions are incorrect, they are revisited. Learning points within this training session. Include:
 - the four licensing objectives;
 - licensing legislation;
 - the defence of due diligence;
 - mandatory conditions;
 - annex 2 conditions;
 - protecting children from harm;
 - challenge 25;
 - identification;

- refusals and zip ride management; and
- offences.

45. I then checked the training documentation and found that everything that had been described to me was accurate. A record is kept of each member of staff. Each entry highlights the training input, the date of the training and the test paper is retained. In my experience I found the record keeping impressive and to an exceptionally high standard.
46. There was also a current incident log and a refusals register, new CCTV, risk assessments, a dispersal policy.
47. I asked about the dog bowls placed around the venue. Redacted explained that apart from the zip wire, their main trade came from dog walkers out on the beach front, families, and from elderly day trippers. She explained that coaches dropped off visitors in Madeira Drive and that the visitors came into the café on arrival and before they departed at the end of the day.
48. **Cumulative impact**
49. The venue has operated for several years with a premises licence, which, for administrative reasons, lapsed. The operators now find themselves having to apply for a new licence to continue their trade.
50. In the years that the venue has operated, other than a minor breach of a condition that was dealt with by a warning letter, no data or evidence has been produced to highlight that the venue has had a negative impact upon the four licensing objectives or the cumulative impact zone.

51. Since the lapse of the licence the venue has operated several TEN's which have not had a negative impact and demonstrate that the venue operators understand their responsibilities and the environment that they are operating in.
52. The application is for cafe. It is not a night club, nor is it a vertical drinking venue or a premium night-time economy destination. It is a mixed-use venue that caters for families, dog walkers, coach parties visiting Brighton, customers to the zip wire, and a passing seafront trade. It adds to the diversity of licensed premises to the north and west of the pier.
53. The view from the main cafe deck is Madeira Drive. It is not somewhere that will attract people sit and enjoy the view of the beach and the water's edge.
54. The operating schedule takes account of best practice measures in the statement of licensing policy, and the training of all staff is comprehensive with excellent record keeping.
55. **Conclusion**
56. The police representation appears to rely upon resourcing issues as the main grounds for their objection and linking it to the crime and disorder and public safety objectives.
57. Based upon my previous experience police resourcing issues have never been the bases on which to object to granting premises licences.
58. The resourcing issue is also linked to a Public Health framework document (2019) and the representation states that the data highlights 'alcohol related incidents' However, the author of the report very carefully sets out in the introduction that *"It is important to note that the Police crime statistics used in this report are proxy*

indicators for alcohol related crime and will not all be alcohol related. These crime types have been chosen as they are most likely to be associated with alcohol”.

59. The representation also mentions breaches of the conditions on the previous licence. However, it does not highlight that the matter was deemed to be a minor infringement that was dealt with by way of a warning that was administered on the same day. The swiftness of the warning is a clear indication of the minor nature of the infringement.
60. The officer issuing the warning letter did not include the reason for dispensing with the matter so speedily and with a warning. It is possible that he understood the unprecedented and unique circumstances that many businesses were experiencing with Covid 19 and the rapid and immediate requirement for people to self-isolate with warnings from the NHS app. The severe strain that businesses were under during that period is well documented.
61. It is also an indication that the officer did not feel that any of the four licensing objectives had been adversely impacted by the minor infringement.
62. No other data has been produced by any responsible authority to highlight that the venue, operating under its previous licence, had been a cause of concern, or had a negative impact upon the four licensing objectives.
63. When making a representation there is an expectation that the author of a representation sets out the necessity and the proportionality of the decision to object to a licence.
64. I have not seen any document or rationale setting out the necessity and proportionality of the decision to object to the licence.

65. However, were I to consider the same application in my previous roles, I would take the following into consideration when considering the necessity and proportionality of my decision:

- That the application is for a licence in a cumulative impact area.
- That it is not a new application per se. The venue had operated with a premises licence and that it was an administrative error that caused the previous licence to lapse.
- That as a previously licensed venue there are 50 members of staff dependent upon the venue.
- That there is no data that highlights that when operating under previous premises licence that the venue impacted upon the four licensing objectives.
- That there were breaches of the licence conditions in August 2021. These were minor breaches that were dealt with by way of a warning letter.
- That the breaches occurred in unique and unprecedented times when members of staff were either being infected with the covid virus or were being told to isolate because they had associated with somebody that had tested positive.
- That the isolation warnings were very short notice events that required immediate isolation that often left employers short of key staff.
- That the staffing problems associated with the NHS app were well documented and were country wide.
- That the management of the venue are acutely aware of their responsibilities to the four licensing objectives.
- That the operators have managed the site for 11 years and there is no adverse comment from the police about those 11 years.
- Temporary event notices have been operating at the venue without having a negative impact on the area or the licensing objectives.
- The DPS has completed refresher training for his personal licence.
- The general manager and the shift manager now hold personal licences.

- Staff involved in the bar/kitchen have undertaken the ARAR qualification, Level 1 Award in Responsible Alcohol Retailing.
- The training regime is comprehensive, accountable, with excellent record keeping.
- That the signage in the venue is clearly displayed and leaves no room for misinterpretation.
- The new menus are available and clearly highlight the requirement for table service.
- The venue is not a vertical drinking establishment, nor is it a night club. It a mixed-use sea front venue that is frequented by elderly day trippers, dog walkers, families and passing sea front trade.

66. I would conclude that, notwithstanding that the venue sits within the cumulative impact zone, the operators have not presented a problem that negatively impacted on the cumulative impact zone or the four licensing objectives, and more recently a number of temporary event notices have operated without a problem. The operating schedule takes account of best practice highlighted in the statement of licensing policy, and the venue operators are more that adequately trained. This is supported by excellent record keeping.

67. Therefore, on balance, I would not have made a representation to object to the licence, and I would have worked with the operators to ensure that the most appropriate licence for the area was agreed with the most appropriate licence conditions.

Ramber

24th November 2021



The Brighton Zip

Madeira Drive

Brighton BN2 1EN

SUMMMARY OF APPLICANT'S SUBMISSIONS

For Hearing Thursday 2 December 2021

Introduction

1. These written submissions should be read in conjunction with those served prior to the licensing sub-committee hearing to determine the TENs heard on 20 October 2021. They are at **appendix 1**. Defined terms are adopted from those submissions. For the avoidance of doubt, this application for a new premises licence is made on the same terms as the TENs. The application complies with the café definition in the Policy (more of which below), save for slightly later hours are sought. Whilst, if granted, these later hours will not always be traded (being open air the popularity of the Premises is weather dependent) it will provide vital additional income to hopefully ensure the business is viable.

Operation under TENs

2. The three TENs were used and alcohol was sold at the Premises on all six days, namely 23, 24, 30 and 31 October and 6 and 7 November. The Applicant believes that the Premises operated

smoothly on those days with the new table ordering system working well. As far as the Applicant is aware, there were no complaints and Sussex Police did not witness anything of concern on, or immediately next to, the Premises. Nevertheless, the Applicant was anxious to have an independent assessment and instructing solicitors engaged Andrew Bamber (a former senior licensing police officer) to conduct a covert assessment of the Premises and to then check that conditions were being complied with and that all training records, risk assessments, dispersal policies, incident logs, refusal books etc were as they should be. His report is at **appendix 2**.

3. The Applicant submits that Andrew Bamber's findings are important for several reasons, namely:
 - a) They are independent recognition that the new style of operation works well, all conditions are being complied with and all the hard work carried out over the past months by the Applicant has paid off, with best practice being adopted, adequate training in place and excellent record keeping.
 - b) In his view, the breaches of condition last summer were sufficiently minor to be dealt with by way of a warning.
 - c) He considers that there is no evidence that the operation of the Premises has had a negative impact on the licensing objections and the cumulative impact zone.
 - d) On balance, he would not have made a representation objecting to a grant of a new licence.

Policy

4. The Applicant is well aware of the Policy and accepts that TENs and new premises licences are considered differently. The Premises is located within the Cumulative Impact Zone and therefore it is only 'if an application is unlikely to add to the cumulative impact of the area [that] it may be granted'. The Policy outlines a matrix approach which '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 investors and businesses making applications'.

5. This application falls to be considered as a café as conditions have been proffered requiring the sale of alcohol to be by waiter/waitress service and substantial food must be available at all times. Within the Cumulative Impact Area the licensing authority would like to see cafes, albeit with a terminal hour for licensable activities of 10 p.m. whereas 11 p.m. has been applied for. The Policy goes on to say that departures from the matrix policy will be granted in exceptional circumstances. The examples of exceptional circumstances, with why the Applicant believes that these exceptions apply, are as follows:

a) Consultation and Meeting Requirements of Responsible Authorities

The Applicant and its legal advisors have had several conversations and email exchanges with Sussex Police and, thanks to the series of TENs, they are well aware of what is being proposed. As the Licensing Authority were not specifically consulted but, again, they are aware of the background to the Application and their representation is solely on the grounds of the Policy.

b) Appropriate Corporate Social Responsibility Policy & Community Support

The Applicant takes Corporate Social Responsibility very seriously.

Last summer, Lauren Mabbett, the Applicant's Retail Operations and Marketing Manager attended the four-week Green Growth UK course for businesses which included marketing strategies and support on how to operate in a more substantiable manner. Subsequently the Applicant changed all its packaging from polystyrene to majority one use plastic for bagasse and paper. Single use plastics and straws were replaced by biodegradable coffee cups, lids and straws. The need to recycle has also been addressed. Glass recycling is to operate alongside the current cardboard collections. All used printer cartridges and paper are also recycled.

The coffee and beer suppliers were changed in the summer to local producers that have a better understanding on where the ingredients come from and their production. The brands now sold are Redroaster Coffee and Bedlam Brewery Craft Beer Co.

The Applicant's chosen charity is the Chestnut Tree House, an East Sussex children's hospice. Community boxes are on site for patrons to donate money and various events have been held to assist with end-of-life care. Furthermore, the Applicant supports many other great causes with one off tickets for use of the zipwire to raffles or organising a whole experience day for the collective. In 2021 contributions were made to:

- i) Children's Respite Trust Charity Ball
- ii) Mascot (SML College) Fundraiser for autistic and dyslexic individuals
- iii) Marlets Garden Fundraiser
- iv) IAPWA Animal Welfare Event held at the zipwire for Celebrities riding. See images and film on our website
- v) Breast Cancer Awareness Wear It Pink Weekend
- vi) Star Sussex Raise for Refugees
- vii) Clock Tower Sanctuary Youth Homelessness
- viii) RISE Foundation Fundraiser for Freedom from Domestic Abuse
- ix) Roedean School Christmas Fundraiser
- x) Rockinghorse Children's Charity
- xi) Benfield Primary School Raffle Prize
- xii) March of the Mermaids
- xiii) Goldstone School Fundraiser
- xiv) Chailey Heritage Foundation Prize Draw
- xv) Longhill Highschool Fundraiser
- xvi) Worthing Divas
- xvii) I Do Sussex
- xviii) Old Ship Hotel Family Break Days
- xix) Balfour Primary School Fundraiser
- xx) Deaf Children's Society
- xxi) Brighton Young Carers Group
- xxii) RocknRoll Productions
- xxiii) British Airways i360
- xxiv) Downsbrook Raffle

The zipwire caters to all individuals, including operating quieter sessions and exclusive access for those needing more assistance. For example, the Applicant has previously run sessions for the likes of the Deaf Children’s Society and Brighton Young Carers Group which have ‘one on one’ time with instructors who provide a safe and welcoming experience.

c) The Sale of Alcohol is Ancillary to Business Activity

The Applicant has proffered the following condition:

“The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the complex as a zipwire (incorporating a coffee shop and ice cream parlour).”

When allowed to carry out licensable activities they account for less than 20% of total revenue.

6. The only remaining example exceptional circumstance is a community contribution to offset impact is not relevant here as the operation has been in situ for many years. However, when the zipwire was constructed £10,000 was paid pursuant to a section 106 agreement.

The Representations

7. The Applicant was heartened that all the representations received from local residents and business were in support of the application rather than opposed, which is most unusual. Furthermore, the representation from the Licensing Authority is based on the Policy (which has hopefully been addressed above) and, rather than asking for the application to be refused, has asked for the panel to decide. This leaves the representation of Sussex Police.
8. Given that the concerns raised by Sussex Police largely echo those presented when objecting to the TENs, the licensing subcommittee is asked to read the relevant sections of the written submission made then which are at **appendix 1**. Furthermore, the comments on the minor breaches of condition in the Summer of 2021 have been discussed at length before two licensing sub-committees and in written evidence. Therefore, the Applicant does not indeed

to repeat what has already been said. The Applicant's comments on the other concerns raised are as follows:

a) Departure from Policy

This has been addressed above.

b) Risk of Intoxication

Drunkenness at the Premises has not previously been identified and the Applicant does not accept it will occur if some patrons choose to have a drink without food. Those revellers who can become drunk and disorderly are attracted to busy vertical drinking establishments with regulated entertainment, late hours and a suitable range of shots, alcopops and other drinks designed to get you drunk as quickly and cheaply as possible. So, who comes to the Premises? As Lauren Mabbett explained to Andrew Bamber, users of the zipwire, locals, dog walkers, families, and day trippers - not categories usually associated with intoxication.

c) Police Resources

The relevance of police resources is covered in some detail in Andrew Bamber's report. Nevertheless, given the style of operation, proffered conditions and clientele, the Applicant submits that a grant as sought will not negatively impact on police resources. In any event, the representation states that the services of the beach Patrol are not required until 23:20 at the earliest which is after the Premises will be closed for licensable activities. Prior to last summer Sussex Police had no reason to visit the Premises and the Applicant believes that this will be the case if a new premises licence is granted.

d) Perception that the Premises is not a Café

The Policy prescribes conditions under the heading 'café' to ensure that the any premises does not become a public house. These conditions have been proffered. Furthermore, as the representation correctly states, signage refers to Zip Bar and Kitchen. Food is an essential part of the offer, as are soft drinks, teas and coffees. The Applicant does not accept that having a well-stocked bar is of any relevance. If a café

did not have a stocked bar, it would not require a premises licence and, in any event, the choice is significantly reduced compared to a bar or pub.

9. Given that that the previous premises licence lapsed due to an administrative oversight which has cost the Applicant tens, if not hundreds, of thousands of pounds, the great strides made by the Applicant in terms of operating practices and procedures, the successful series of TENS and the community support, it is disappointed that Sussex Police are still unable to support the application and are maintaining that the application should be refused in its entirety. The Applicant wishes to stress again that it is always willing to discuss matters with Sussex Police and to discuss any suggested amendments to the application they might have.

Conclusion

10. The Applicant desperately hopes that 2 December 2021 will see the end of a nightmare which has endured since the Summer. It has done all it can to prove that it can be a responsible operator and simply asks for an opportunity to ensure that the business can survive. The Application complies with the matrix save for an additional hour throughout the week in the summer and from Thursday to Saturday during the winter. For the reasons cited above, the Applicant considers that this is an exceptional application and, as the Policy maintains, it should be considered on its own merits. As District Judge Anderson said in the much cited *Brewdog Bars Limited v Leeds City Council* case when deliberating the merits of granted a premises licence to the well know Scottish pub co., 'It cannot be the policy of the Cumulative Impact Policy to bring the iron curtain clanging down to allow such clubs to trade while shutting out Brewdog which attracts more discerning customers who do not engage in binge drinking'. The Premises is not in Leeds, but the same logic applies. The Premises attracts a wide ranging, civilised crowd who enjoy food and drink whilst seated and being served at table. This should be encouraged and is in stark contrast to the vertical drinking establishments on the beach whose clientele were the driver behind the cumulative impact policy in the first place.
11. The Licensing Sub-Committee is therefore respectfully asked to grant the application as sought.

NIALL McCANN

Partner, Keystone Law

25 November 2021

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