

# Licensing Panel (Licensing Act 2003 Functions)

Date: **16 February 2022**

Time: **10.00am**

Venue **Virtual**

Members: **Councillors:** Deane, O'Quinn and Simson

Contact: **Clare Chapman**

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# AGENDA

## 1 TO APPOINT A CHAIR FOR THE MEETING

### WELCOME & INTRODUCTIONS

## 2 PROCEDURAL BUSINESS

(a) **Declaration of Substitutes:** Where Councillors are unable to attend a meeting, a substitute Member from the Licensing Committee may attend, speak and vote in their place for that meeting.

(b) **Declarations of Interest:**

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

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**NOTE:** Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

## 3 FREE HAUS LIMITED LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

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Report of the Executive Director of Housing, Neighbourhoods & Communities (copy attached).

Contact Officer: *Emma Grant*  
Ward Affected: *Regency*

Date of Publication - Tuesday, 8 February 2022

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For further details and general enquiries about this meeting contact Clare Chapman, (01273 291065, email [penny.jennings@brighton-hove.gov.uk](mailto:penny.jennings@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

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# Licensing Panel (Licensing Act 2003 Functions)

Brighton & Hove City Council

<b>Subject:</b>	<b>Application for a New Premises Licence under the Licensing Act 2003</b>		
<b>Premises:</b>	<b>Free Haus 73 - 75 Kings Road Arches Brighton BN1 2FN</b>		
<b>Applicant:</b>	<b>Free Haus Limited</b>		
<b>Date of Meeting:</b>	<b>16 February 2022</b>		
<b>Report of:</b>	<b>Executive Director of Housing, Neighbourhoods &amp; Communities</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Emma Grant</b>	<b>Tel: (01273) 292381</b>
	<b>Email:</b>	<b>Emma.Grant@brighton-hove.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>Regency</b>		

## 1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for Free Haus Limited.

## 2. RECOMMENDATIONS:

- 2.1 That the Panel determine an application for a New Premises Licence under the Licensing Act 2003 for Free Haus Limited.

## 3. CONTEXT/BACKGROUND INFORMATION & CONSULTATION

- 3.1** The application is for a New Premises Licence under the Licensing Act 2003. The application proposes to open a Brighton Bier retail space in the arches. This would also give us an important central office location for day-to-day operations of the business which would make visiting customers and meeting clients much easier. The retail space would sell a range of Brighton Bier merchandise. This would include: cans of Brighton beer for takeaway. we would not sell open containers, or glass and limit sales to cans of beer that could be bought for takeaway and in gift sets. As an example, a single can of our 4 percent Brighton beer, pale ale would probably sell for around three pound fifty 330ml, so this is a premium purchase. we are not seeking to sell cheap beer. this is a premium craft beer product sold at a high price. we would also be limited by the volume we can sell each day by lack of storage and space so this is not intended to compete with bars on the seafront and is a very different retail proposition. plans for the arches are attached which shows the small size. into this we need to install a toilet block, counter area, meeting space and merch displays so there is only a small area for fridges for takeaway gift sales of beer. Brighton beer brand clothing and other merchandise. We also hope to operate brewery walking tours, starting at the arches and taking in various historic brewing sites around Brighton before finishing in a pub in the centre of the city. we also plan to provide information on other brewing related activities around Brighton to highlight the other breweries in the city and encourage visitors and residents to visit these sites away from the seafront. we would also like to be able to hold small ticketed tasting events.
- 3.2** Part M (the operating schedule) of the application is detailed at Appendix A and the plan of the premises is attached at Appendix B.
- 3.3** Summary table of proposed activities

	<b>Proposed</b>
<b>Supply of Alcohol</b>	Every Day 11:00 to 20:00 on and off the premises
<b>Hours premises are open to public</b>	Every Day 11:00 to 20:00

- 3.4** Cumulative Impact. The premises falls within the Cumulative Impact Area (“The Area”) (see paragraphs 3.1 – 3.1.10).



## **Representations received**

- 3.5** Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. A summary appears below:
- 3.6** 3 representations were received, 1 supporting and 2 opposing. They were received from Sussex Police, The Licensing Authority and Seafront Estates Team at Brighton & Hove City Council.
- 3.7** Representations received had concerns relating to Prevention of Crime and Disorder, Cumulative Impact, Public Safety, Prevention of Public Nuisance.
- 3.8** Full details of the representations are attached at Appendix C. A map detailing the location of the premises is attached at Appendix D. Supporting evidence from the applicant can be found at Appendix E

## **4. COMMENTARY ON THE LICENSING POLICY**

- 4.1** The following extracts from Brighton & Hove City Council Statement of Licensing Policy are considered relevant to this application and **are numbered as they appear in the policy**:

### **1 Introduction**

**1.1** This Statement of Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 (the Act) and having regard to Guidance issued by the Home Office under Section 182 of the act. This policy takes effect from the 4th February 2021. The licensing authority is Brighton & Hove City Council. The purpose of this statement is to promote the licensing objectives and set out a general approach to making licensing decisions. The discretion of the licensing authority in relation to applications under the act is only engaged if 'relevant representations' are made by other persons or responsible authorities. This policy will inform the approach to be taken when deciding applications and imposing conditions when relevant representations are received. It is also intended as a guide for applicants as to what to include in their operating schedules, always recognising that if no representations are received, the application must be granted. The licensing authority must carry out its functions with a view to promoting the licensing objectives and this policy is framed around those objectives. Each application will be given individual consideration on its merit. The scope of this policy covers the following:

- Retail sales of alcohol.
- The supply of alcohol by or on behalf of a club, or to the order of, a member of the club.
- The provision of regulated entertainment.
- The provision of late night refreshment.

### **1.2 The licensing objectives are:**

- (a) the prevention of crime and disorder.

- (b) public safety.
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

### **1.3 Scope**

1.3.1 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity. Each application will be given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the act.

## **3 Special Policies and Initiatives**

### **3.1 Cumulative impact**

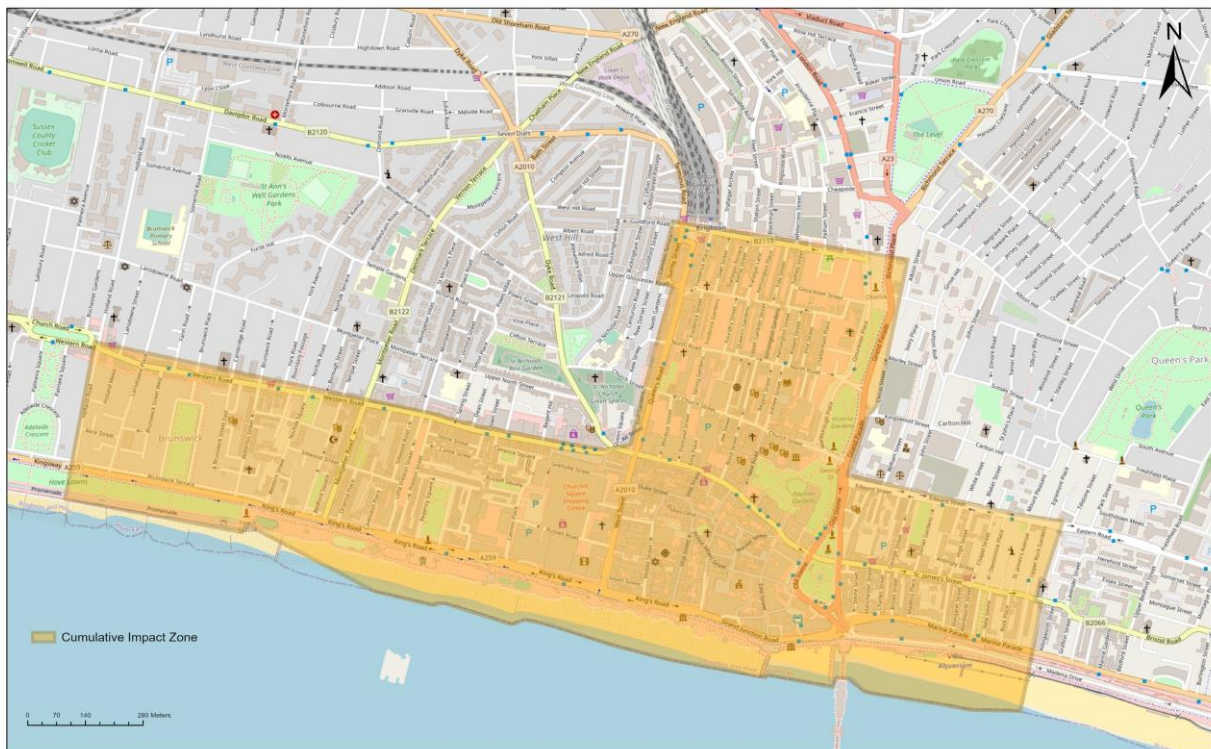
3.1.1 The licensing authority may receive representations from either a responsible authority or other persons that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. This should not, however, be confused with 'need' which relates more to the commercial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

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

3.1.3 The licensing authority, after careful consideration, has determined that the concentration of licensed premises in an area of the city centre is causing problems of crime and disorder and public nuisance, and that therefore an approach to 'Cumulative Impact' is necessary as part of its statement of licensing policy. The first Special Policy incorporating a Cumulative Impact Zone (CIZ) and Special Stress Areas (SSA's) was adopted in March 2008. Since that date, the licensing authority has kept the CIZ and SSA's under review. On 15 December 2011 Full Council resolved to expand the CIZ and the special stress area, covering 1.5% of the administrative area of Brighton & Hove City Council. On 20th November 2014 Licensing Committee resolved to confirm the current CIZ and SSA as defined in the current Statement of Licensing Policy. On the 29th November 2018 Licensing Committee resolved to expand the SSA into Central Hove. It is now proposed to expand the SSA into Preston Road and Beaconsfield Road. The licensing authority has published a Cumulative Impact Assessment which can be found at Appendix E.

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

Cumulative Impact Zone, January 2021



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

3.1.6 The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licences or club premises certificates within the area, or variations which are likely to add to the existing Cumulative Impact will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact.

3.1.7 This special policy also applies to all new premises licences and club premises certificates, for example pubs, restaurants and take-away establishments. Off licences also come within this policy as they can contribute to problems of street

drinking, proxy purchasing, dispersal issues, preloading and excessive drinking and related disorder.

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

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

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

### **3.3 The Matrix Approach**

#### **The Licensing Authority will support:**

3.3.1 Diversity of premises: ensures that there is a mix of the different types of licensed premises and attracts a more diverse range of customers from different age groups, different communities and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This will have a positive effect in reducing people's fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time may create opportunities for violent crime and public disorder and therefore supports mixed use venues encouraging a wider age balance.

3.3.2 A "matrix" approach to licensing decisions has been adopted and is set out below. It provides a framework of what the licensing authority would like to see within its area and gives an indication of the likelihood of success or otherwise to investor and businesses making applications.

Matrix approach for licensing decisions in a Statement of Licensing Policy (times relates to licensable activities)

	<b>Cumulative Impact Area</b>	<b>Special Stress Area</b>	<b>Other Areas</b>
<b>Restaurant</b>	Yes (midnight)	Yes (midnight)	Yes (midnight)
<b>Café</b>	Yes (10 pm)	Yes (10 pm)	Yes (10 pm)
<b>Late Night Takeaways</b>	No	Yes (midnight)	Yes (midnight)
<b>Night Club</b>	No	No	No
<b>Pub</b>	No	Yes (11pm)	Yes (midnight)
<b>Non-alcohol lead (e.g. Theatre)</b>	Yes (favourable)	Yes (favourable)	Yes (favourable)
<b>Off-licence</b>	No	No	Yes (Up to 11pm but if in densely residential area may be earlier – see note 7 below)
<b>Members Club (club premises certificate)</b>	Yes (<100 capacity) (11pm)	Yes (<100 capacity) (11pm)	Yes

#### Notes on matrix

Subject to the following notes, the policy, as represented in the matrix, will be strictly adhered to:

- 1) Each application will be considered on individual merit
- 2) Applications within the CIZ are subject to the special policy on cumulative impact at para 3.1, and those within the special stress area to the special stress policy considerations at para 3.2.
- 3) Departure from the matrix policy is expected only in exceptional circumstances
- 4) Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix.
- 5) Exceptional circumstances may include: consultation with and meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to offset impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary to business activity (demonstrable to responsible authorities and licensing authority, for instance by licence condition allowing authorised officers access to sales accounts).

6) The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community based street parties, members clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre.

7) Other Areas; consideration will be given to the nature of the area and location in relation to any application. In a residential area for example the concerns of local residents will be relevant when considering applications for off-licences, pubs or cafes, especially if there is evidence of anti-social behaviour, street drinking or underage drinking. Earlier closing times may be appropriate. Regard will be had to the Public Health Framework for assessing alcohol licensing on our website [www.brighton-hove.gov.uk/licensingact](http://www.brighton-hove.gov.uk/licensingact).

8) In an area where there are already several existing off-licences or where the premises is situated within a parade with another off licence and where representations are received about negative cumulative impact on the licensing objectives of a further premises, the application may be refused on these grounds or restrictions placed on the terminal hour to reflect opening hours of other shops.

9) Outdoor events will be supported where arranged through the council's event planning process. Generally, regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The licensing authority will have regard to Noise Council guidance.

10) Non-alcohol led category does not include "alcohol in shared workplaces". It is recommended that sale of alcohol in shared workspaces should have a terminal hour of no later than 10pm. For further advice and guidance on "alcohol in shared workplaces" please see paragraph 3.3.4-3.3.6.

### **3.5 Off licences**

In recent years there has been a noticeable shift towards more people buying alcohol from shops and drinking at home prior to going into premises such as pubs and clubs. The council is concerned that alcohol loading from off-licence sales is a significant problem in the city and adversely affects the licensing objectives as it gives rise to problems of drunkenness, disorderly behaviour and a higher risk of alcohol sales to children. Representations from the police, local residents and the director of public health at licensing panel hearings have testified to these problems and Information published in the Public Health Framework for assessing alcohol licensing presents a ward by ward analysis of crime and disorder and health data which is relevant in this respect.

3.5.1 The special policy on cumulative impact and the special stress areas apply to off licences as explained in the matrix approach at 3.3. But in general, where applications are made for new premises or variations to existing licences, and where the police or others make representations against the grant of a further licence for off sales, the council will give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption

off the premises. Decisions will be grounded in the Public Health Framework for assessing alcohol licensing. The council will want to be assured that the operating schedule of premises, and their overall management, training and levels of staffing, are appropriate to ensure that the licensing objectives are promoted in what may be challenging circumstances. Retail outlets and stores where the provision of fresh produce is the principal product sold maybe considered more favourably.

3.5.2 The Licensing Authority encourage off licences to join the Council led “Sensible on Strength” scheme to reduce the availability of cheap super strength beers and ciders. Off licences voluntarily sign up not to sell cheap super-strength beers and ciders over 6% ABV and operate good practice measures (see 3.5.3) for which they receive an accreditation as a responsible retailer.

3.5.3 Areas of best practice that may be included in an Operating Schedule include

- the installation of a digital CCTV system by liaison with, and to a standard approved by Sussex Police
- Challenge 25 policy
- Refusals system
- Documented staff training including underage sales, drunkenness and proxy sales
- Voluntary restriction of high strength alcohol - operating schedules may be used to limit high ABV beers and ciders
- BCRP membership (or other accredited scheme)
- No sale of single cans
- Displays should not be located at the entrance/exit points or near checks out

3.5.4 The Licensing Authority and Sussex Police have specific concerns around the delivery of alcohol off the premises due to issues around the end location of delivery, age verification checks (Challenge 25), the increased possibility of the alcohol coming into the CIZ and SSA from other areas, as well as the personal safety of drivers when having to refuse a delivery at the end destination.

3.5.5 Alcohol delivery poses a unique set of challenges as it often transfers the final age verification to a person who has no responsibility in relation to the Premises Licence which authorised the sale of alcohol. A premises licence holder needs to be satisfied that their drivers or the delivery drivers of the third party company they chose to use, have received regular and comprehensive training in age verification and identifying persons who have consumed too much alcohol.

3.5.6 Evidence has shown that customers have previously used landmarks/businesses not related to them as addresses for delivery so that alcohol could be consumed in open spaces/parks. The risk being that this may lead to increased crime and disorder including anti-social behaviour and criminal damage, as well as the possibility that underage persons can gain access to alcohol. Concerns have also been raised about the delivery of alcohol to known street drinking hotspots. Therefore, a condition requiring all deliveries to be to a verifiable residential or business address and a face to face ID verification is vital in mitigating some of this risk.

3.5.7 While the Licensing Authority and Sussex Police recognise this is a growing area of business, new or variation applications to include the delivery of alcohol off the

premises will be subject to increased scrutiny. Suggested conditions for the provision of an alcohol delivery service can be found at Appendix A. These are not exhaustive and each application will be considered on its own merits.

### **3.6 Street drinking**

3.6.1 The Licensing Authority will have regard to areas highlighted by Sussex Police that are at risk from alcohol related anti-social behaviour. The nature of these areas can be fluid/seasonal and so updated maps and data will be produced regularly to ensure the information is current. These hot spot areas are considered high risk for street drinkers and the Licensing Authority will have regard to prevention of crime and disorder by virtue of street drinking and anti-social behaviour when considering applications in this area.

### **3.9 Promoters and irresponsible drinks promotions**

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

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

## **4 Prevention of Crime and Disorder**

The following details and measures are intended to address the need for the prevention of crime and disorder which may be associated with licensed premises and certificated club premises. Conditions attached to licences and certificates will, as far as possible, reflect local crime reduction strategies.

4.1.1 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority expects that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door supervisors so that drug dealers and users will be deterred from using licensed premises for illegal



purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection. It is the duty of the designated premises supervisor (DPS) to train staff on induction concerning conditions on their premises licence.

- 4.1.2 It is expected that the DPS will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises and that staff are authorised by the DPS.
- 4.1.3 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.
- 4.1.4 Measures put in place should support the intentions of Operation Marble (police operational order), which aims to prevent incidents of crime and disorder within the night time economy, at weekends. Operation Marble operates with a view to minimising the risk to the public of being a victim of public place violent crime; to reduce incidents of violent crime and public disorder within the city centre; to deal positively with offences and offenders; to secure and preserve evidence which will assist in the prosecution of offenders and to support the night time economy and the responsibly run businesses within it.

## **4.2 Sussex Police**

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

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

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

and the Licensing Committee in relation to off-licences and late night refreshment licences.

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

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

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

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

### **4.3 Care, control and supervision of premises**

4.3.1 The Licensing authority supports the Business Crime Reduction Partnership and other approved schemes. Where appropriate, premises licence holders should be members of the BCRP for the deterrence to violent crime that such membership provides. The BCRP NightSafe radio scheme is normally expected as an operational requirement for city centre bars, clubs and pubs and is an example of good practice in achieving the aim of reducing crime and disorder and improving

public safety. Well managed pub-watch schemes provide information exchange between the premises licence holders and responsible authorities that reduce and deter violent crime and disorder. The council will support a responsible licensing scheme.

4.3.2 The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The police will consider the applicants, objecting to the application where appropriate. The police may suggest crime prevention measures in relation to, for example, the internal layout of the premises, closed-circuit television, help points, lighting and security staff. The police may ask for conditions which support such measures to be imposed when licensing applications are granted, eg type of licence, capacity, operating hours restrictions.

4.3.3 Following the grant of a licence, the management and supervision of the premises, in so far as it might impact on crime and disorder, will continue to be monitored. Particular attention will be paid to any licensed premises where there is evidence of criminal activity or any association with racist or homophobic crime. The licensing authority will keep itself well briefed on the nature, location and type of premises where alcohol related violence and disorder are occurring so it can take full account of the facts and avoid exacerbating problems as required by the Community Safety Strategy. Where licensed premises are found to cause nuisance or be associated with disorder or unreasonable disturbance, the review process may be invoked, and powers of revocation or the imposition of conditions may be considered. Conditions may include use of closed-circuit television, licensed door supervisors and earlier closing times. Such action to restrict the operation may be taken for trial periods to allow businesses an opportunity to remedy existing disorder, nuisance or disturbance.

4.3.4 This policy recognises the use of registered Door Supervisors All Door Supervisors will be licensed by the Security Industry Authority. Mobile security units and similar systems are in use by some premises operators as a means of providing security cover at very short notice at premises which may not normally require a permanent security presence. This policy endorses the use of units following such guidance and standards in appropriate circumstances.

4.3.5 The development of codes of practice and general operating standards for security companies is encouraged for local businesses; premises operators are urged to ensure that security services, when engaged, are provided by suitably qualified businesses operating to recognised standards and who should be working towards SIA accreditation.

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

## **5 Public Safety**

The following details and measures are intended to address the need for the protection of public safety which may be associated with licensed premises and certificated club premises.

5.1.1 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue

authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.

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

5.1.3 Conditions may be imposed in accordance with operating schedules to protect public safety including where justified:

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

5.1.4 Where appropriate, licence holders or their authorised representatives will submit event safety plans and operating manuals, attend Event Planning Teams or Safety Advisory Groups and similar meetings prior to large events and shall be part of Event Liaison Teams during such events. Due regard shall be had to relevant guidance and publications including, for example: HSE approved code of practice for events

## **6 Prevention of Public Nuisance**

The following details and measures are intended to address the need for the prevention of public nuisance which may be associated with licensed premises and certificated club premises:

6.1.1 In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, as a result of people entering or leaving the premises or from individuals or groups of customers gathered outside (eg in order to smoke).

6.1.2 Applications for new licences or for the extension in size of licensed premises should not normally be granted if the premises will use amplified or live music and operate within or abutting premises containing residential accommodation except that occupied by staff of the licensed premises. A condition may be imposed on new licences that entertainment noise shall be inaudible in any residence. Noise emanating from within licensed premises should not normally be audible outside.

6.1.3 Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the

licensed premises.

6.1.4 Generally, regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The Licensing Authority will have regard to Noise Council guidance.

6.1.5 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.

6.1.6 Reasonable controls are available to all premises operators to minimise the impact of noise from customers outside. The council's Environmental Health Department has issued guidance on a number of steps that can be taken in this respect which are endorsed by this policy (see 6.2 below).

## **6.2 Smoking Advice**

6.2.1 Premises licence holders will be expected to:

- Develop a management plan on how to manage smoking on your premises and ensure that all staff are aware of the contents of this plan, and that it is effectively implemented. Noise from people smoking and talking can be intermittent, vary in character and volume and be intrusive. An effective smoking management plan will help prevent neighbours being disturbed.
- Comply with any planning conditions restricting the use of outdoor areas.
- Ensure that any structures used by smokers comply with the design criteria detailed in the Heath Act 2006 and that any structures, awnings, retractable canopies, etc. have the relevant planning permission.
- Ensure any new lighting to outdoor areas must be designed so as not to cause a light nuisance to neighbours and again have the relevant planning permission and building control consent.
- Ensure that the conditions on the premises licence are complied with. There may be conditions restricting the hours of use of gardens and

outdoor areas. Having reviewed the contents of the premises licence you may find it necessary to request a variation of your licence.

- Licence tables and chairs on the Public Highway under the provisions of the Highways Act 1980. These licences may have conditions restricting the times that the area can be used.
- Ensure drinks, glasses and bottles are not taken onto the highway unless there is a tables and chairs licence permitting use. A system
- should be adopted to prevent theft and 'spiking' of drinks and reminding customers not to leave unattended items.
- Discourage smokers remaining in gardens and outdoor areas and determine terminal hours.
- Discourage smokers remaining outside by removing/disabling tables and chairs or prohibiting their use after a certain time. Lights and heaters will also be turned off.
- Introduce a system that after a certain time the number of smokers outside are restricted to a maximum number. Staff will be needed to manage this restriction.
- Employ staff and/or SIA registered door supervisors to manage doors and control customers and smokers entering and leaving the premises. Staff positioned on the doors can help to encourage customers not to cause a noise problem. It may be that staff are required to manage doors after a certain time, particularly during the hours when neighbouring residents are trying to sleep.
- Ensure door supervisors maintain order outside venues and protect customer safety. BCRP supports the use of Night Safe. Radio net and other pager systems and pub watch schemes can be used to provide for rapid police response and alert other venues where customers and staff are endangered.
- Position signs to remind customers that the premises is in an area where people live. It is not always obvious in busy commercial streets with flats above. By changing the design and wording of signs customers do not forget. Signs can be located in and outside the premises and on tables.
- Use CCTV to manage outside areas.

6.2.2 Licensed premises should normally display prominent, legible signs at exits reminding customers to leave in a quiet, peaceful, orderly manner.

## **8 Integration of Strategies**

8.1.1 The licensing authority shall secure the proper integration of this policy with local crime prevention, planning policy, transport, tourism and cultural strategies by:-

- Liaising and consulting with the Sussex Police, Community Safety Forum, Sustainability Commission representatives and following the guidance in community safety and crime and disorder strategy
- Liaising and consulting with Public and Alcohol Programme Board
- Liaising and consulting with the East Sussex Fire & Rescue Service
- Liaising and consulting with the Local Strategic Partnership, Safety Advisory

## Group (Emergency Planning) and Equalities and Social Justice Consultation Forum

- Liaising and consulting with the Planning authority
- Liaising and consulting with the Highways authority
- Liaising and consulting with local business and business associations. Having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols
- Liaising and consulting with the Trading Standards Team, for example with regard to test purchasing codes of practice

8.1.2 In line with statutory requirements and the council's Inclusion Policy, the Licensing Authority shall have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and positive relations between persons of diverse backgrounds, for example communities of interest such as: lesbian, gay, bisexual and transgender people; disabled people; racial and ethnic groups; religious and faith groups.

8.1.3 This policy supports the aims of the tourism strategy, recognising the benefits for the tourism economy of creating a safer and more attractive city centre and improving competitiveness with other European cities. The Licensing Committee should receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area to ensure that it considers these matters.

8.1.4 The Licensing Committee should receive relevant information relating to the employment situation of the area and the need for new investment and employment where appropriate.

8.1.5 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include the use of closed circuit television cameras, use of the NightSafe radio system or accredited scheme, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening. Certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements listed above.

8.1.6 The licensing authority will have regard to the need to disperse people quickly and safely from the city centre to avoid concentrations which may produce disorder and disturbance.

### **8.3 Enforcement**

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

arrangements.

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

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

## **APPENDIX A – Licensing Best Practice Measures**

Best Practice Measures to be included for consideration, in particular in SSA:  
Matters that would normally be expected in operating schedules:

- the adoption of a policy (e.g. Challenge 25) with acceptable proof of ID as per existing Statement of Licensing Policy
- all off sales to be made in sealed containers for consumption away from the premises
- a smoking policy which includes an assessment of noise and litter created by premises users
- the use of plastic or polycarbonate drinking vessels and containers, especially in outside areas or after specified hours
- a policy in relation to searching customers and for drugs, weapons, seized or lost and found property
- use of a refusals book for registering attempts to buy alcohol by under-age persons or refusals to those intoxicated
- the installation of a digital CCTV system by liaison with, and to a standard approved by, Sussex Police
- policies for dispersal of customers which may include signage regarding taxi services' telephone numbers and advice to respect neighbours and minimize noise

Items to which positive consideration would be given:

- membership of Business Crime Reduction Partnership, Pubwatch, Neighbourhood Watch or similar schemes
- use of 'Night Safe' radio system or similar accredited scheme
- regular training and reminders for staff in respect of licensing legislation, policies and procedures; records of which should be properly recorded and available for inspection
- records of regular checks of all parts of the premises in relation to drug use
- systems in place to ensure details of barred clients are exchanged with other operators
- giving an agreed minimum notice of special events (screening of major



sports events, birthday parties, adult entertainment, etc.) to relevant authorities and use of appropriate additional measures at such events

Recommend best practice for both on and off premises

- Staff must be aware of the risk of the problem of proxy sales and offer assistance to responsible authorities to deter offences
- Signage on premises should set out legal duties
- Voluntary restriction of high strength alcohol – operating schedules may be used to limit high ABV beers and ciders
- Staff training – in addition to personal licence holders training, staff must be adequately trained for duties
- Challenge 25 would be the norm, particularly in the off licence trade
- Signage – proxy sale – deterrence

## 5. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications:

- 5.1 The licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime.

*Finance Officer Consulted Michael Bentley*

*Date: 07/02/22*

### Legal Implications:

- 5.2 The licensing authority must act to promote the four licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The licensing authority must have regard to its statement of licensing policy and the guidance issued by the Secretary of State in carrying out its functions.

*Lawyer Consulted: Rebecca Sidell*

*Date: 07/02/22*

### Equalities Implications:

- 5.3 Diversity is valued and strong, safe communities are vital to future prosperity. Licensing policy aims to protect children from harm including sale and supply of alcohol to children.

### Sustainability Implications:

- 5.4 Licensing policy aims to prevent public nuisance and develop culture of live music, dancing and theatre.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Appendix A – Part M of the Application (Licensing Objectives)
2. Appendix B – Plan of Premises
3. Appendix C – Representations
4. Appendix D – Map of area
5. Appendix E – Licence Application Additional Information

### **Documents in Members' Rooms**

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

Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003, April 2018.

Public Health Framework for assessing Alcohol Licensing. Annual Report – Ward. 5<sup>th</sup> edition. Public Health Intelligence. January 2019

### **Background Documents**

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

## Appendix A

### M

Describe the steps you intend to take to promote the four licensing objectives:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)**

WE WILL ENSURE THAT NO ONE UNDER THE LEGAL AGE OF DRINKING WILL BE ABLE TO PURCHASE BEER. CUSTOMERS WILL HAVE TO VERIFY WITH ID THAT THEY ARE 18 OR ABOVE AND WE WILL OPERATE A CHALLENGE 25 POLICY.

CUSTOMERS WILL BE RAPIDLY DISPERSED POST PURCHASE.

**b) The prevention of crime and disorder**

WE WILL OPERATE IN PARTNERSHIP WITH THE SEAFRONT OFFICE AND POLICE IN THE AREA. WE ARE ONLY INTENDING TO SELL OFF-SALES SO CUSTOMERS WILL BE RAPIDLY LEAVING THE PREMISES AFTER PURCHASE.

WE ARE NOT LOOKING TO OPERATE LATE IN THE EVENING. OUR TRADING HOURS WILL VARY SEASONALLY, BUT BE BASED LARGELY UPON DAY LIGHT. WE WOULD INTEND TO ONLY BE OPEN UNTIL 5PM FOR AUTUMN/WINTER AND THEN A SLIGHTLY LATER CLOSE DURING SUMMER, BUT THIS WOULD BE WHILE IT IS STILL LIGHT AND WE WOULD BE CLOSED BY 7PM – 8PM IN THE SUMMER MONTHS. WE WILL NOT BE OPEN LATE.

**c) Public safety**

WE WILL ABIDE BY ALL EXISTING HEALTH AND SAFETY/FIRE SAFETY ETC REQUIREMENTS AND SEAFRONT POLICY/REQUIREMENTS.

NOTHING WILL BE SOLD IN OPEN CONTAINERS AND WE WILL ONLY BE SELLING CANS SO THERE WILL BE NO GLASS BOTTLES.

**d) The prevention of public nuisance**

IN ADDITION TO FOLLOWING LICENSING LAWS AROUND THE SERVING OF ALCOHOL, THERE WILL BE NO LATE NIGHT ACTIVITIES ON SITE.

WE OPERATE 3 VENUES IN BRIGHTON (BRIGHTON BIERHAUS, HAUS ON THE HILL, BRIGHTON BIER TAPROOM), ARE EXPERIENCED OPERATORS AND HAVE NEVER HAD ANY ISSUES.

BEER WILL BE EXPENSIVE. AT C.£3.50 FOR A 330ML CAN OF 4.0% PALE ALE IT IS A PREMIUM PURCHASE. WE ARE NOT SELLING 5X 500ML FOR £5 LIKE OFF LICENSES. THIS IS A PREMIUM CRAFT BEER PURCHASE AND AS A RESULT ATTRACTS A DIFFERENT CUSTOMER AND IS A MORE CONSIDERED PURCHASE.

SOME WILL BUY TO TAKEAWAY, BUT A LOT WILL BE FOCUSED ON GIFT PURCHASES AND WE WILL ALSO ENABLE CUSTOMERS TO ORDER FROM THE ARCHES SHOP VIA AN IPAD FOR HOME DELIVERY.

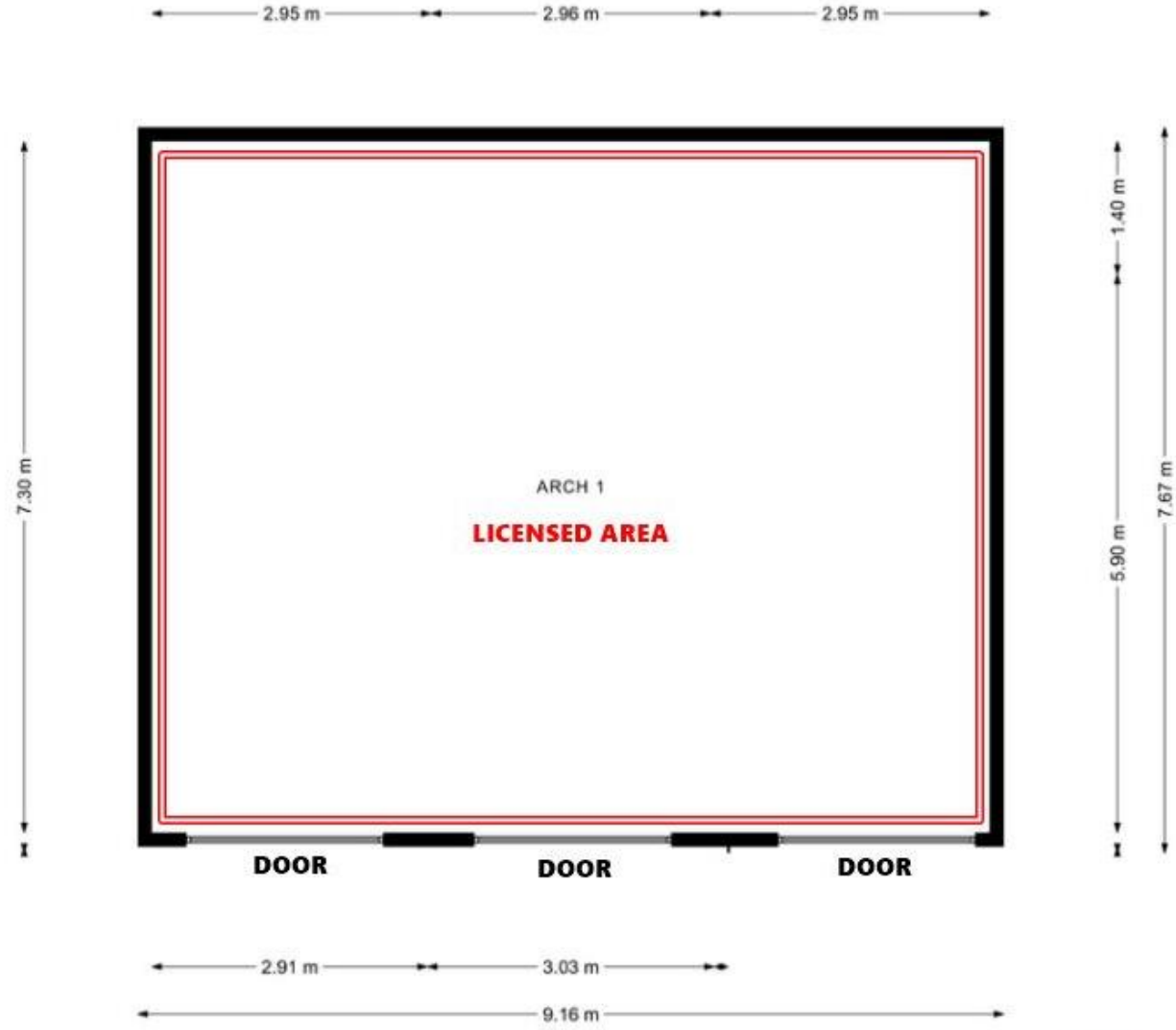
**e) The protection of children from harm**

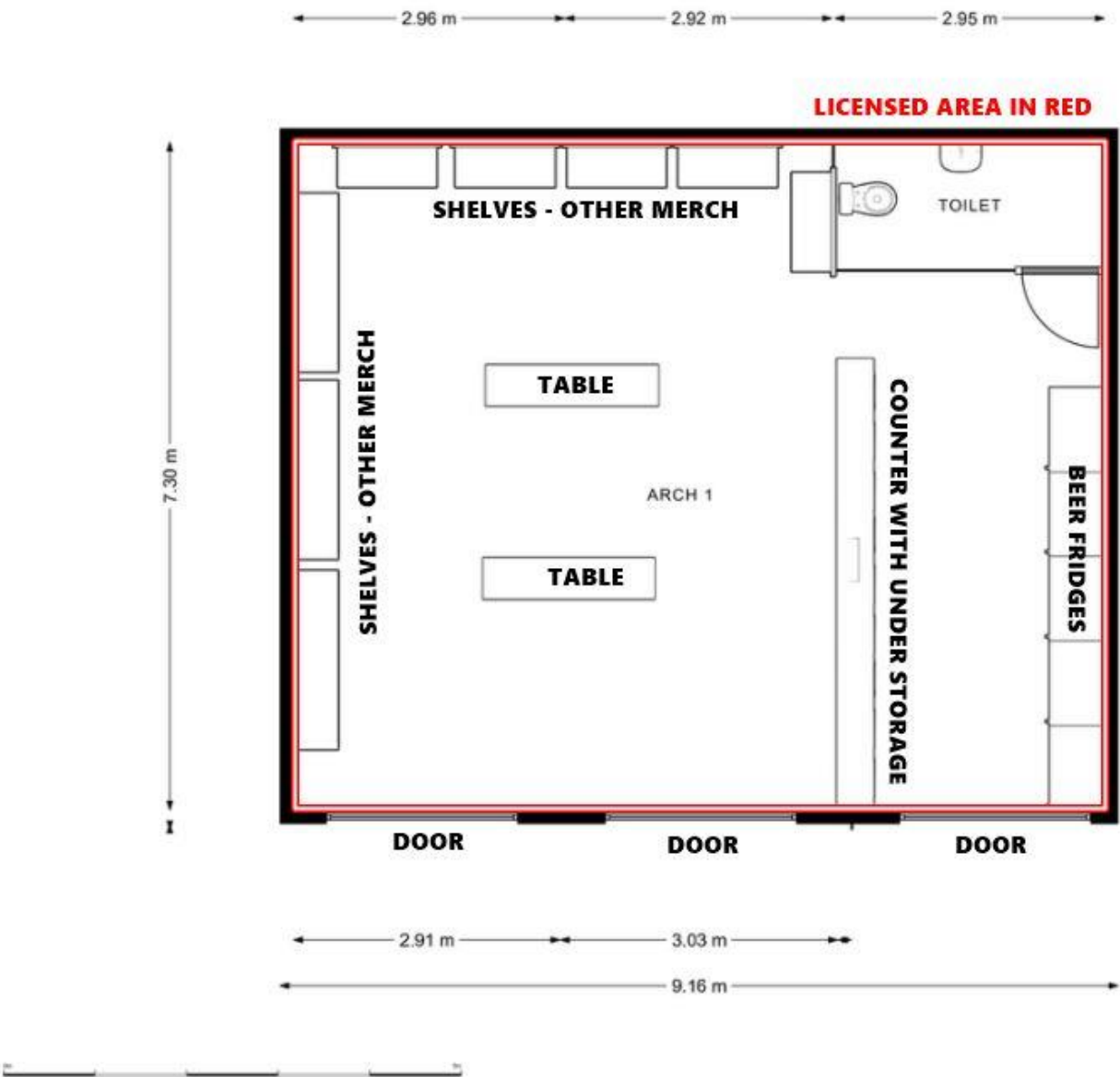
WE WILL ENSURE THAT NO ONE UNDER THE LEGAL AGE OF DRINKING WILL BE ABLE TO PURCHASE BEER. CUSTOMERS WILL HAVE TO VERIFY WITH ID THAT THEY ARE 18 OR ABOVE THROUGH ENFORCEMENT OF THE "CHALLENGE 25" POLICY. WE WILL MAKE SURE ALL STAFF UNDERSTAND AND ARE TRAINED ON THIS POLICY, AND OTHER HSE REQUIREMENTS.

**Checklist:**

**Please tick to indicate agreement**

Appendix B





## **Appendix C.1**

Police Station

John Street

Brighton

BN2 0LA

Tel: 01273 404535 ext 550828

Email:

brighton.licensing@sussex.police.uk

### **EG CON ENDS 20.01.22 VALID PCD, PN, PS & CIZ (A)**

17<sup>th</sup> January 2022

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

Dear Emma Grant,

**RE: APPLICATION FOR A NEW PREMISES LICENCE FOR FREE HAUS LTD, 73-75 KINGS ROAD ARCHES, BRIGHTON, EAST SUSSEX, BN1 2LN UNDER THE LICENSING ACT 2003. 1445/3/2021/04451/LAPREN.**

I write on behalf of the Chief Officer of Police for Sussex to raise a representation against the grant of the above application on the grounds that it will undermine the Licensing Objectives of the prevention of crime and disorder, prevention of public nuisance and public safety. We also make reference to the Brighton & Hove City Council (BHCC) Statement of Licensing Policy (revised January 2021) and the Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018).

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

Sale by Retail of Alcohol (On and Off the premises)

**Everyday:** 11:00 – 20:00

Opening hours

**Everyday:** 11:00 – 20:00

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

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

The licensing decision matrix on page 16 of the Council Statement of Licensing Policy (SoLP) suggests that new premises or premises licence variations asking for the off sale of alcohol are a ‘No’ in this area and the types of premises that can provide ‘On’ sales are very limited.

The ‘Cumulative Impact Zone’ is covered by special policy and paragraph 3.1.6 provides that:

*‘The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licences or club premises certificates within the area, or variations which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact.’*

Paragraph 14.40 of the Secretary of State’s Guidance to the Licensing Act 2003 (April 2018) provides:

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

Additionally, this premises lies within Regency Ward which, as evidenced by the Brighton & Hove Public Health Framework for Assessing Alcohol Licensing (published January 2019), is ranked number 1 for All violence against the person, All injury violence, Non-injury and Sexual offences. This ward is also ranked number 2 for Police recorded alcohol related incidents and number 3 for Criminal damage, demonstrating the higher risk to the Licensing Objective of the Prevention of Crime and Disorder in this area.

The applicant did not pre consult with Sussex Police and in the initial paperwork had not addressed any of the local concerns or offered particular reasoning as to why their application would be an exception to policy or why the SoLP matrix should be departed from. The information under Section

M of their application offered minimal conditions which fell far short of the current city wide expected standard. There was also no mention of any crime prevention measures such as CCTV provision, SIA risk assessment/provision or regular, time specific (e.g. every 8 weeks) staff training around the sale of alcohol besides Challenge 25.



Sussex Police have made contact with the applicant during the consultation period and have since received a more comprehensive document around how the business is to operate. Despite this, Sussex Police still do not believe the application addresses the local concerns and issues that the area of the i360 and the beach attracts, particularly in the warmer months. Further conditions have been offered but Sussex Police do not believe these go far enough to help mitigate any potential risk in this particular area of the City. Therefore, the application is at risk of undermining the prevention of crime & disorder, prevention of public nuisance and public safety Licensing Objectives. Furthermore, Sussex Police contend that the carrying on of additional licensable activity and the hours applied for at these premises will add to the existing negative cumulative effect in an area already saturated with licensed premises.

Therefore, Sussex Police invite the Licensing Authority to seriously consider refusing this application.

Yours sincerely,



**Insp Michelle Palmer-Harris**

**Ops Planning and Events (inc. Licensing) Inspector**

**Brighton & Hove Division**

**Sussex Police**

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

Mrs Grant	Date:	19 January 2022
Licensing Authority	Our Ref:	2022/00015/LICREP/EH
Brighton & Hove City Council	Phone:	01273 292494
Bartholomew House	e-mail:	<a href="mailto:donna.lynsdale@brighton-hove.gov.uk">donna.lynsdale@brighton-hove.gov.uk</a>
Bartholomew Square		
Brighton		
BNI IJP		

## **EG CON ENDS 20.01.22 VALID PCD, PN & CIZ (B)**

Dear Mrs Grant

### **Licensing Act 2003 - Reference: 2021/04451/LAPREN**

#### **Representation regarding to the New Premises Licence application for Free Haus Limited, 73-75 Kings Road Arches, Brighton BNI 2FN**

I write to make a representation on behalf of the Council's Licensing Team, in their capacity as a responsible authority, in relation to the above application for a new Premises Licence submitted by Free Haus Ltd.

This representation is made as the Licensing Team have concerns that the application could have a negative impact on the licensing objectives of prevention of crime and disorder and public nuisance. I also refer to the Special Policy on Cumulative Impact (SPCI) contained within the Council's Statement of Licensing Policy (SoLP).

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

Guidance issued under S182 of the Licensing Act 2003 (April 2018) states in paragraph 8.41 that in completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. The guidance goes on to say in paragraph 8.43 that applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, Cumulative Impact Zone (CIZ)), applicants are also expected to demonstrate an understanding of how

the policy impacts on their application, any measures they will take to mitigate the impact, and why they consider the application should be an exception to the policy.

I have looked carefully at this application, paying particular attention to the Matrix and any exceptional circumstances provided for departing from the Matrix. The applicant did pre-consulted prior to submitting their application and have provided a very comprehensive document around how the business is to operate.

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

The Council's Statement of Licensing Policy also includes a Matrix approach for licensing decisions with provisions for a terminal hour for all classes of licensed premises in a particular area. The Matrix Model recognises the diverse operation and different risks presented by different classes of licensed premises. It provides a vision of what the licensing authority would like to see within its area and gives an indication of likelihood of success or otherwise to investors and local businesses making applications.

The Licensing Team make this representation to uphold our Statement of Licensing Policy. The SPCI is predicated on too much alcohol being available and, as previously stated, applications for new premises licences will be refused unless the applicant can demonstrate exceptional circumstances. The onus is on the applicant to demonstrate this and we would invite them to explain their exceptional circumstance to the Panel, so that the Panel can decide whether they are satisfied that this application will not impact negatively on the CIZ.

Yours sincerely



Donna Lynsdale  
Licensing Officer  
Licensing Team



## **Appendix C.2**

### **EG CON ENDS 20.01.22 VALID PCD (SI)**

To whom it may concern,

As landlord for 73-75 Kings Road Arches, Brighton we would like to make a representation in favour of the licence application by Free Haus Ltd.

We have offered the prospective tenant a 10 year lease of the premises. The propose permitted use is as a retail outlet for canned craft beers, gift packs and associated merchandise; as a local brewing information hub; for ticketed tasting events and as ancillary there to as a logistics, meeting and office space.

The use of the adjacent arches is very much retail and visitor experience based. The outlets include clothing, art and design shops, visitor attractions for i360, Rampion Windfarm and West Pier Trust as well as high quality hospitality offers – Murmur restaurant and Flour Pot Bakery.

The proposed use by Free Haus Ltd compliments the existing businesses and would be a unique addition to the seafront portfolio. As landlord for the premises we are not offering any outside patio space for tables and chairs as would be the norm for a hospitality type use. This will reduce dwell time and prevent drinking of alcohol on the promenade. Whilst we do not restrict opening hours within the lease, we understand from the application that the business will only be open during the daytime except when there are ticketed events. Again, this supports the existing uses which, with the exception of Murmur, are focused on daytime trading.

We strongly feel that based on their previous ventures, Free Haus Ltd will be a valuable, high-end addition to the seafront and will add to the quality and vibrant mix of businesses in this particular area.

Kind regards

*Toni Manuel*  
*Seafront Development Manager*

*Jane Pinnock*  
*Seafront Estates Surveyor*

# FREE HAUS LIMITED | WEST PIER ARCHES

## LICENSE APPLICATION ADDITIONAL INFORMATION

11.01.2022

### PREMISES

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73-75 Kings Road Arches, Brighton, BN1 2LN  
(Landlord, Brighton & Hove City Council)

The space is comprised of 3 arches, roughly 8.8m wide x 7.3m deep (each 2.9m x 7.3).

Into this space we need to build a toilet block for staff to use as well as a counter service area. The standard recommended size of a toilet cubicle is 1.5m x 0.85m. A toilet, counter and thoroughfare will likely take up the equivalent space of 1 arch.

### PLANNED USE

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We understand and appreciate the property is within the CIZ and understand the Council's *Statement of Licensing Policy* as the basis for all licensing decisions. We operate 3 venues in Brighton: Brighton Bier Taproom, Brighton Bierhaus (within the CIZ) and Haus on the Hill and are very aware of our responsibilities and licensing requirements.

We trust that the information below will show that we are not doing anything that adds to issues of *binge-drinking created by cheap alcohol and fierce price competition* in the city and give you the confidence to support our application. Neither will be engaging in irresponsible promotions or underage sales and the beer on sale will comply with, and go beyond, the *Sensible on Strength* policies as well as meeting *Drinkaware* guidelines.

**We would like to open a retail store for our BRIGHTON BIER brand and business.**

This will be a gift-shop/retail outlet selling a wide range of branded merchandise and other products, whilst also acting as an information hub for modern and historic brewing in Brighton, providing us with central office space to work from, and a space to hold small ticketed-closed door small-serve tasting events.

As we are an international award-winning brewery, this would also entail the sale of beer giftsets and packs. This will be just one component of a wider offering as explained below.  
**We are not planning to open an off-license.**

We discussed our plans with the Seafront Office who “*see this as very much a retail and visitor experience to compliment the other businesses in the area (West Pier Arches)*”.

### MERCHANDISE

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We intend to sell a wide range of branded merchandise onsite and available online, which can be fulfilled from the arches. Plans for merchandise, include:

- **CLOTHING** – T-shirts, sweatshirts, jackets, hats and other items such as a range of bags. Storage and display of which takes up considerable space.
- **SEASIDE GIFTS** – for example Brighton Bier branded rock, beach towels.

- **ART** – we sponsor Brighton version of the *Pubstops* poster (national series where every pub in a city is put on a “tube map”) and these would be available alongside hopefully other art related to our brand and beer probably including *BeerDoodles™* and/or *Art By Volume* (redesign brands as vintage record sleeves).

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We also know how popular boardgames are currently and would look to sell a small section of brewing specific games, such as *The Taverns of Tiefenthal*, *The Belgian Beers Race*, *Brew Crafters* and *Brewopoloy*.

None of these encourage drinking, they are all strategic board games and none of them require or include drinking in the game.



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All of these types of merchandise need to be prominently displayed and to have sufficient stock on the premises, which would take considerable space before we consider beer.

- **BEER** – as an international award-winning brewery, customers will also expect to be able to buy beer from us. We will be very actively encouraging customers to visit our pubs and the brewery itself in East Brighton to try a wider range of our beer.

Our intention is to focus on gift-sets and packs of beer. Given the beachfront location, we will not sell any beer in bottles OR sell any branded Brighton Bier glassware.

We would sell lower ABV beers, likely between 4.0% - 5.0% ABV, which also meet the *Sensible on Strength* guidelines. And only 'Brighton Bier' products.

The beer will be expensive:

- **Co-op sell 4x 440ml 'Carling' for £4.20, or the equivalent of £2.39 per litre.**
- **By comparison, 4x 330ml 'Brighton Bier' (4.0%, Pale) is £14.00, (£10.61 per litre)**
- **We are not competing with cheap supermarket or off-license deals.**



- Compared to Carling, Brighton Bier is nearly **4.5x (343%) more expensive than the standard supermarket offer.**

We are not, and have no interest in, competing with off-licenses and supermarkets, and adding to issues caused by cheap alcohol and competitive pricing. We are very much at the other end of the spectrum. Running a modern-day craft brewery is extremely expensive. This is an artisanal product, with high production overheads, and the price of our beer reflects this.

Our signature 'Brighton Bier Pale Ale' (4.0% ABV) has won prestigious international awards around the world. Likely pricing and packaging for this, which is the cheapest beer we sell, include:

- Fridge Pack (4x 330ml), **£14.00**  
*These would be boxes of 4 beers, designed to fit in the fridge with a perforated section to remove for access to the beer (boxes will be Brighton Bier branded):*



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*Either in a branded Brighton Bier box of 6 cans or provided in a 6-can recyclable biodegradable cardboard carrier to avoid plastic into which the cans clip for carrying and greater rigidity/safety in a bag (as well as being compostable).*



- Bier, Pilsner and T-Shirt Gift Pack (2 cans), **£20.00**  
*A set including 2 cans plus a tshirt stored in the top of the box.*



- A single can of 330ml 'Brighton Bier, 4.0% Pale', if we sell them, would be £3.50 - £4.00 (£10.61+ per litre), which is far removed from supermarkets and off-licenses prices. 440ml cans would be even more expensive at c.£4.50 - £5+ for a single can.
- In some cases prices would be more expensive than above, e.g. a 5.0% beer would likely be £18 for a Fridge Pack of 4x 330ml beers (£13.64 per litre) and £24 for 6x 330ml.

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Craft beer needs to be stored at cold temperatures; at the brewery we have a large cold store for this. Light and temperature will rapidly degrade beer. Refrigeration is vital to maintain beer freshness, flavours and aromatics as well as preventing oxidation, which turns the beer sour or develops off-flavour which in turn ruin the product. At the Arches, storage space will be limited, and the units are South-facing which will make the space hotter. We will need to store the beer and pre-made packs in fridges to maintain the integrity and quality of the product and prolong its shelf-life.

Cold storage is key for craft beer with bigger hop flavours that can degrade quicker in heat and without the pasteurisation process that is used in many mainstream mass-produced beers. Craft beer is typically unpasteurised because the rapid heating and chilling of the pasteurisation process is not good for the flavour of the beer as aromas tend to be lost, and the flavour of the beer is 'flattened' by the process.

Fridges like the one below would be 90cm wide x 50cm deep. 3 or 4 fridges would therefore take c.1.5m<sup>2</sup> - 2m<sup>2</sup> from a total floor area of c.64m<sup>2</sup> and so only a very small percentage of available space giving us plenty of room for other plans, whether that be merch, displays, event/workspace, storage, service counter and toilet.



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### **ADDITIONAL USES FOR THE ARCHES**

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Tickets would likely be £25+ per person for a tasting of a small number of beers, served in small measures. The focus is on people learning about different beers styles and the brewing process not on the amount of beer available.

**This would be on the only on-sales.** The events would be bookable in advance and is the reason that we would like to have a license until 8pm so that we can do these events in an evening after work, e.g. 6:00pm – 7:30pm.

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## **OPENING/LICENSED HOURS**

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We do not intend to be open in the evening and be part of the night-time economy.

The hours we requested on the license are 11am – 8pm.

We expect that from mid-autumn until early spring hours would likely be 11am – 5pm.

From late Spring to early autumn, we would like the flexibility to be open until 7pm or 8pm as this would also enable us to hold the ticketed events discussed on midweek evenings after work.

The only onsales would be the ticketed events.

A lot of the time we would envisage the unit being closed by 5pm. We might open or be onsite before 11am but would not sell alcohol until this time.

## **PROMOTION OF LICENSING OBJECTIVES**

---

### **GENERAL**

- We will operate a strict over 18 policy and 'Challenge 25 Policy' to ensure underage drinking is not possible, as we do in our other venues, and require identification bearing customer's photograph and date of birth. Accepted ID will be passports, official Photographic Identity Cards issued by EU States bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram
- Any beer sold will be in closed containers (cans in 330ml or some 440ml sizes) with no glass for sale. The only alcohol for sale will be Brighton Bier products and all meet criteria for *Sensible on Strength*.
- We will not conduct irresponsible promotions or marketing activities to encourage an irresponsible approach to the consumption of alcohol. Neither will we provide free alcohol or heavily discounted prices that could undermine licensing objectives.
- There will be no posters/flyers of comparable promotional materials in the vicinity that could be reasonably considered to condone, encourage or glamourise anti-social behaviour or refer to the effects of drunkenness in any favourable manner.
- Customers will disperse rapidly from the shop and there will be no seating outside and no onsite drinking (except for closed door ticketed events). As a landlord, the Seafront Office (Brighton Council) will not permit any music to be played which is audible from outside the premises and combined with no outside seating will not therefore encourage people to gather immediately outside the shop.

### **THE PREVENTION OF CRIME AND DISORDER**

- We will operate in partnership with the Seafront Office and Police in the area and follow and support any and all initiatives.

- We are not looking to operate late in the evening and become part of the night-time economy. Hours as explained will hopefully be seasonal, but largely dictated by daylight.
- There will be no glass beer bottles. Beer will only be in closed cans and no glassware will be available either to drink from.
- We will install CCTV and appropriate recording equipment in line with Home Office guidelines to cover internal and external public areas, including the entrance, which will record at all times. The CCTV will be sufficient to record in all lighting levels inside the premises, footage will be stored for minimum 31 days, and full and immediate cooperation and technical assistance will be provided to the police as required, including provision of footage.
- An incident log will be maintained showing detailed notes of any incidents that occur on the premises or anything we are aware of directly outside. This will be inspected and signed off by the DPS on a monthly basis. The log book will be on the premises and available for inspection by the Licensing Authority, Police or Seafront Office as required. Refusals of sales of alcohol will also be recorded, logs will be kept for 24-months.
- No cash would be kept on the premises, and all transactions would likely be card-based.

### **PUBLIC SAFETY**

- We will abide by and rigorously follow all health and safety requirements and seafront policies.
- Nothing will be sold in open containers and there will be no glass beer bottles or glassware available for sale.

### **THE PREVENTION OF PUBLIC NUISANCE**

- There will be no late-night activities on site. We are not intending to be part of the night-time economy. We operate 3 busy venues in Brighton, are experienced operators and have had no issues.
- Beer sold will be at sensible ABVs and will be expensive. This will be a premium purchase and attract a different type of customer to the cheap off-licenses and supermarkets, as explained earlier. Beer will just be one aspect of the merchandise available for purchase, we will therefore draw a diverse customer base looking to purchase a variety of different items not just beer.
- There will be no music audible outside the shop and no seating outside the arches to encourage loitering, staff will also monitor the immediate outside area and report any incidents as necessary.

### **THE PROTECTION OF CHILDREN FROM HARM**

- We will operate a strict over 18 policy and 'Challenge 25 Policy' to ensure underage drinking is not possible, as we do in our other venues, and require identification bearing customer's photograph and date of birth.  
Accepted ID will be passports, official Photographic Identity Cards issued by EU States bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram
- Signage advertising 'Challenge 25' will be prominently displayed.
- All staff will be trained on licensing requirements, the lawful selling of age restricted products and refusing the sale of alcohol to a person who is drunk. (We have extensive successful experience of this from the 3 venues we run without problems in the city).



## Appendix D







## Appendix E

# FREE HAUS LIMITED | WEST PIER ARCHES

## LICENSE APPLICATION ADDITIONAL INFORMATION

11.01.2022

### PREMISES

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73-75 Kings Road Arches, Brighton, BN1 2LN  
(Landlord, Brighton & Hove City Council)

The space is comprised of 3 arches, roughly 8.8m wide x 7.3m deep (each 2.9m x 7.3).

Into this space we need to build a toilet block for staff to use as well as a counter service area. The standard recommended size of a toilet cubicle is 1.5m x 0.85m. A toilet, counter and thoroughfare will likely take up the equivalent space of 1 arch.

### PLANNED USE

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We understand and appreciate the property is within the CIZ and understand the Council's *Statement of Licensing Policy* as the basis for all licensing decisions. We operate 3 venues in Brighton: Brighton Bier Taproom, Brighton Bierhaus (within the CIZ) and Haus on the Hill and are very aware of our responsibilities and licensing requirements.

We trust that the information below will show that we are not doing anything that adds to issues of *binge-drinking created by cheap alcohol and fierce price competition* in the city and give you the confidence to support our application. Neither will be engaging in irresponsible promotions or underage sales and the beer on sale will comply with, and go beyond, the *Sensible on Strength* policies as well as meeting *Drinkaware* guidelines.

**We would like to open a retail store for our BRIGHTON BIER brand and business.**

This will be a gift-shop/retail outlet selling a wide range of branded merchandise and other products, whilst also acting as an information hub for modern and historic brewing in Brighton, providing us with central office space to work from, and a space to hold small ticketed-closed door small-serve tasting events.

As we are an international award-winning brewery, this would also entail the sale of beer giftsets and packs. This will be just one component of a wider offering as explained below.

**We are not planning to open an off-license.**

We discussed our plans with the Seafront Office who "*see this as very much a retail and visitor experience to compliment the other businesses in the area (West Pier Arches)*".

### MERCHANDISE

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We intend to sell a wide range of branded merchandise onsite and available online, which can be fulfilled from the arches. Plans for merchandise, include:

- **CLOTHING** – T-shirts, sweatshirts, jackets, hats and other items such as a range of bags. Storage and display of which takes up considerable space.
- **SEASIDE GIFTS** – for example Brighton Bier branded rock, beach towels.

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