

APPENDIX C

Becky Pratley
Licensing Team, BHCC
Bartholomew House
Bartholomew Square
Brighton
BNI IJP

Date: 22nd February 2018
Our Ref: 2018/01177/LICREP/EH
Phone:
Email:

BP CON ENDS 28.02.18 VALID PPN & PCD (A)

Dear Mrs Pratley,

RE: Licensing Act 2003 - Representation against the application for variation of premises licence (Ref. 2018/00422/LAPREV) for British Airways I360, Lower Kings Road, Brighton

I wish to make a representation in relation to the application for variation of the premises licence (ref. 2018/00422/LAPREV) for British Airways I360, Lower Kings Road, Brighton submitted by Brighton I360 Ltd. The representation is based on the grounds of prevention of crime and disorder, public nuisance and makes reference to our Special Policy contained within the Statement of Licensing Policy.

This application is to remove and amend conditions on the existing licence, namely:-

- Condition 7 to be removed (which would allow customers to finish their drinks anywhere in the building rather than specific areas)
- Condition 13 to be removed (In the Restaurant alcohol will be served by waiter/waitress service to persons seated at tables. There is substantial food offer available and there will be no vertical drinking).
- Condition 21 to be removed (All drinks that are dispensed into glass type vessels in the Pod or any of the outside areas shall be dispensed into polycarbonate or the like).
- Condition 8 to be amended to allow 'Off' sales and to add 'off' sales to sale by retail of alcohol overall.

This premises falls within the Licensing Authority's Cumulative Impact area which was adopted to give greater power to control the number of licensed premises within the city centre. The special policy was set up because the Licensing Authority determined that the concentration of licensed premises and the subsequent numbers of people drawn into the city centre is causing exceptional problems of crime and disorder and public nuisance. The effect of 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.

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.

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 Matrix (on page 17 of the Council's Statement of Licensing Policy) states that in the Cumulative Impact area (CIZ) no new pub permissions will be granted and the applicant is proposing to remove conditions relating to the restaurant making it more of a pub. The applicant is also looking to add 'off' sales to the licence and the matrix states that no off licences will be granted in the CIZ. It is important to note that each application is still considered on its individual merit.

I acknowledge that the applicant has a number of existing conditions on their licence which uphold the four licensing objectives and they have made reference to the fact that the suggested changes will not detract from the overall objectives but they have not mentioned the cumulative impact policy. I therefore do not feel that they have demonstrated how these changes will not negatively impact on the cumulative impact of the area thus not showing exceptional circumstances to depart from the special policy.

The premises is also situated in the CIZ and the electoral ward of Regency, which according to our Public Health Framework for Assessing Alcohol Licensing is ranked (out of 21 wards) the 2nd worst for police recorded alcohol related incidents and ranked the worst A&E attendances with a record of alcohol and alcohol suspected ambulance call outs.

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

However, the 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. If an application is unlikely to add to the Cumulative Impact of the Area or the applicant has rebutted the presumption of refusal by demonstrating exceptional circumstances then the licence may be granted.

Yours sincerely

Sarah Cornell
Senior Licensing Officer
Licensing Team
Regulatory Services

First Floor
Police Station
John Street
Brighton
BN2 0LA

28th February 2018

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

SC COND ENDS 28.02.18 VALID PCD, PPN, PS, PCH & CIZ (B)

Dear Becky Pratley,

RE: APPLICATION TO VARY A NEW PREMISES LICENCE FOR i360 LOWER KINGS ROAD, BRIGHTON, BN1 2LN UNDER THE LICENSING ACT 2003 (1445/3/2018/00263/LAPREV)

I write on behalf of the Chief Officer of Police for Sussex to raise a representation against the grant of the above application on the grounds of the prevention of crime and disorder, public nuisance, public safety and for the protection of children from harm. We also make reference to the Brighton & Hove City Council (BHCC) Statement of Licensing Policy (SoLP).

This is a proposed licence variation for a premises that is located in the City's Cumulative Impact Zone (CIZ) which seeks to remove the following conditions from the premises licence:-

Annex 2 – Conditions consistent with the Operating Schedule

General

7. *Members of the public will be permitted to take unfinished alcoholic drinks which they have purchased on the pod with them, into the Beach Building (the area into which the Pod descends and lets its passengers off). These persons will be directed into one of the following areas:*
 - (a) *The Belle Vue Restaurant where there is seating/tables (hatched in blue on the floor plan).*
 - (b) *Into the Volk Room where they can view a free exhibition whilst finishing off their drink (hatched in yellow on the floor plan).*

(c) To a specifically cordoned off area in “Constable” room on the western side (which is marked in green on the floor plan) where seats will be provided.

No drinks will be permitted to be consumed outside of any of the licensed areas.

Persons attending private events in another part of the premises will be permitted to take their drinks with them from the Pod into the Private Event.

13. In the Restaurant alcohol will be served by waiter/waitress service to persons seated at tables. There is substantial food offer available and there will be no vertical drinking.

Public Safety

21. All drinks that are dispensed into glass type vessels in the Pod or any of the outside areas shall be dispensed into polycarbonate or the like

This Variation also proposes to amend the following condition

General

8. There are no ‘On’ Sales intended in this area for the general public, however there are 8 areas of the Beach Building which can be partitioned off from public use and made available for private hire ranging from weddings to conference and on some occasions could entail the use of the whole area and include the Restaurant as well and the outside patio areas. These include –

- The Attenborough Room*
- The Birch Room*
- Constable Room*
- The Nash Room*
- The Greene Room*
- Austen Room (The Children’s play zone)*
- Volk Room*
- The Belle Vue Restaurant*

Regarding the removal of condition 21 Sussex Police feel this could increase the potential for Crime and Disorder and reduces Public Safety as any person despite their age or demographic could use a broken glass as a weapon while in the Pod. Care is taken to remove knives and sharp implements from the public when entering the pod and the introduction of glass drinking vessels could increase the risk of injury to the public as they could be used as a weapon if broken. The applicant has not stated how health and safety will be managed in the pod should there be a breakage or injury to a member of the public.

Additionally, should Condition 7 be removed as proposed then persons can take glass from the Pod and move freely around the building making it a vertical drinking establishment. Further issues may arise as glass drinking vessels could be left unattended around the Building for anyone to pick up. At present the licence restricts drinking up to 3 defined areas of the premises which can be managed and controlled by security. There is no

explanation of how security will be managed if the general public can move freely around the Premises. People will be able to move freely around the Beach Building with alcohol which leads straight out onto the beach which could potentially undermine the Licensing Objectives of Crime and Disorder and Public Safety.

Paragraph 3.1.4 of the Brighton and Hove City Council 2016 Statement of Licensing Policy states:

“The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licenses 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”.

The licensing decision matrix on page 16 of the Council Statement of Licensing Policy (SoLP) states that no new premises or premises licence variations asking for these licensable activities e.g. late night refreshment and hours will be granted in the CIZ, except in exceptional circumstances.

Paragraph 14.30 of the Secretary of State’s Guidance to the Licensing Act 2003 provides:

“The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licences...which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives”.

This premises is in the Cumulative Impact area, where the licensing decision matrix on page 16-17 of the Council Statement of Licensing Policy (SoLP) indicates a No for new premises applications or premises licence variations asking for “vertical drinking” e.g. a Pub and for Off Licences which would be the case if Condition 13 is removed and Condition 8 is amended to allow Off sales.

The applicant has not referred to the Cumulative Impact Zone or the BHCC Statement of Licensing Policy (SoLP) in their application, nor did they consult with Sussex Police prior to submission. Sussex Police do not believe that the applicant has offered comprehensive reasoning why the application would be an exception to policy or why the SoLP should be departed from. No restrictions or additional new conditions have been offered within this variation to fully migrate risk and reassure Sussex Police that the Licensing Objectives will not be undermined by these changes.

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

Yours sincerely,

Insp Di Lewis
Licensing & Response Inspector
Local Policing Support Team
Sussex Police

From: Debbie Leigh
Sent: 28 February 2018 16:23
To: EHL Safety
Cc: Debbie Gibson-Leigh; Tom Druitt; Alex Phillips; Caroline Brennan; stuart lauchlan
Subject: 1445/3/2018/00422/LAPREV OBJECTION

SC CON ENDS 28.02.18 VALID PCD, PPN, PS, PCH & CIZ (C)

Good afternoon,

I want to register an objection regarding this licence application from Brighton i360 Ltd. The objection relates to the following licence objectives:

Prevention of Crime and Disorder
Public Safety
Prevention of Public Nuisance
Protection of Children from Harm

The application states:

"We would also like to remove the condition relating to verticle drinking within our restaurant, the West Beach Bar & Kitchen. Therefore we would like to remove point 13"

This establishment is within the cumulative impact zone and removal of this condition will just turn this venue into another large seafront bar, with the potential of causing further anti-social behaviour and noise nuisance to residents who live along the seafront. The applicants state that "The demographic of our visitor is a low risk" This may be the case for visitors paying to visit the Pod, but you do not need to pay to enter the West Beach Bar and Kitchen and therefore this establishment has no different a demographic than other licensed premises on the seafront.

The recently released Public Health Framework for Assessing Alcohol Licensing 2017 clearly shows that the i360 is within the hotspot area of police recorded alcohol related incidents. Turning this establishment into another vertical drinking premises will only encourage further crime and disorder in Regency ward.

Regards,

Debbie Gibson-Leigh, Chair Brighton Old Town LAT
C/O Flat 1 Clarendon Mansions
80 East Street
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