

APPENDIX C

Jim Whitelegg
Head Of Licensing
Brighton and Hove City Council
(via email)

Date: 26th March 2018
Our Ref: 2018/01586/EPLIC/EH
Contact:
Phone:
Fax:
Email:

BP CON ENDS 03.04.18 VALID PPN & PS (A)

Dear Mr Whitelegg

Formal representation for an Application for New Premises License at Chapter XIII, 11-12 Pool Valley, Brighton Licensing Act 2003
Complaint Reference : 2018/01586/EPLIC/EH

I write to formally place a representation in terms of the application for a new premises license at Chapter XIII, 11-12 Pool Valley, Brighton.

Ms Jessica Stocker, the applicant has submitted an application for a new premises license proposing to carry out a business which involves the use of the premises for licensable activities. This representation is made for this application on the grounds of “**prevention of public nuisance**” and “**public safety**”, two of the 4 threads woven through the Licensing Act 2003.

Ms Stocker opened Chapter XIII in 2015 as a tattoo parlour with a small cafe. Since opening Ms Stocker has applied for a number of temporary event notices most of which there have been no problems although there were noise complaints in 2015. There were also problems during Pride 2016 which resulted in Police and Environmental Health attending and closing down the event. So, when Ms Stocker applied for a temporary event notice for Pride 2017 the Environmental Protection team put in a representation but at the hearing the panel agreed that Ms Stocker could have the TEN. Again there were serious problems which resulted in the Police and Environmental Health Officers having to close down the event.

On 20th July 2016 I visited with a colleague and spoke to Jessica Stocker on the basis of an advertisement seen online indicating that Chapter XIII was working with a local radio station to put on a local party in Pool Valley during Pride weekend. Ms Stocker denied any external party and misled the local authority as to the arrangements being made for the Pool Valley area. On the Saturday of Pride, 6th August 2016, this department was called to the Pool Valley area and were faced with a large unlicensed gathering, there was a large number of individuals in the area, speakers outside and a stage. This area of land is Council land and used as a bus and coach station. The Department required the services of the Police on that day to close down the party, disperse the large gathering, and protect public safety and prevent public nuisance. This became even more of an issue when a national express coach tried to gain access to the Pool valley coach stop.

As a result of the circumstances seen on the day a noise abatement notice was served under section 80 of the Environmental Protection Act on Jessica Stocker, preventing any further parties in the Pool Valley area as it believed from the information seen that Chapter XIII was instrumental in the organisation of the event. The noise abatement notice was not appealed and remains in force as a legal document all the time that Jessica Stocker remains at Chapter XIII.

On 3rd April 2017 Miss Stocker was visited by a colleague from this department and also colleagues from the Police Licensing Team to discuss prospective future TENs also the need to comply with the noise abatement notice previously served.

On the afternoon of Saturday 5th August 2017 the day of Pride this department and the Police were called to Pool valley and were faced with a large unlicensed gathering of hundreds of people in the pool valley/coach station area with a DJ and decks on a stage outside the premises. It took a considerable amount of Police and local authority time and resource to clear this area of all the people that had congregated outside Chapter XIII and manage and reduce the risk to public safety and prevent public nuisance. Coaches were backed up along the Old Steine because they were not able to come into the Pool Valley area and coach station.

In February 2018 Ms Stocker applied for a Temporary Event Notice (TEN) for Sunday 1st April 2018 which is Easter Weekend, this application had very limited information and when asked to provide more information this was not forthcoming. Ms Stocker also said that there would be 75 people but after a visit by East Sussex Fire and Rescue it was deemed that Ms Stocker could only have a maximum of 60 people in the premises. Police and Environmental Protection repped the application and at a licencing panel hearing a counter notice was issued. Ms Stocker has applied for a further TEN for this date but appears to have taken on board comments made by the panel.

The current notification is for a premises license. Having regard to the above incidents responded to by the local authority and the Police this department has no confidence in the management and running of events at this premises and that to have a full license will result in more frequent events and noise complaints and the likelihood for a breach of the current noise abatement notice. This premises is in an area surrounded by residential and hotel accommodation, and an area where buses and coaches have free access and commercially operate. I am concerned that public nuisance will result and public safety will be at risk. For breaching a noise abatement notice if found guilty in a magistrates court there is a fine of up to £20,000.

Please do not hesitate to contact me should you wish to discuss the matter further.

Yours sincerely

M L Hayward
Environmental Protection Officer

From: Debbie Leigh
Sent: 26 March 2018 15:20
To: EHL Safety
Cc: Debbie Gibson-Leigh; Alex Phillips; Tom Druitt; Alex Phillips; Caroline Brennan; stuart lauchlan
Subject: 1445/3/2018/00823/LAPREN OBJECTION CHAPTER XIII POOL VALLEY

BP CON ENDS 03.04.18 VALID PPN, PS, PCD & CIZ (B)

Good afternoon,

I want to register an objection regarding this license application from CHAPTER XIII.

The objection relates to the following licence objectives:

Prevention of Crime and Disorder
Public Safety
Prevention of Public Nuisance

Chapter XIII is situated in an area that is already saturated with bars and clubs. It is directly within the Cumulative Impact Zone and is surrounded by licensed premises. In Pool Valley alone, there is the HAUNT nightclub, the YHA, HOSTEL POINT and a licensed Turkish restaurant. Further up towards East Street, there is the East Street Tap and the Casino, the Pitcher and Piano, the Queens Hotel, Bau Wau nightclub and a licensed sex club.

Recently, a new block of residential flats has been built in Pool Valley and its residents will be subjected to potential noise nuisance, threats to public safety and possible crime and disorder if this premises was to be given a full license.

Brighton and Hove's Public Health Framework for Assessing Alcohol Licensing 2017 clearly shows that Regency Ward in which CHAPTER XIII is situated, is rated "worst" for alcohol related Crime and Disorder. CHAPTER XIII is directly within the hotspot area of police recorded alcohol related incidents.

Prevention of Crime and Disorder
Public Safety
Prevention of Public Nuisance

On 2 occasions in August 2016 and August 2017, police had to be called to disperse large crowds that had gathered to attend Pride parties at CHAPTER XIII. The venue had applied for and been granted temporary event notices for these parties. However, the events were not run responsibly and public safety was put at risk.

Pool Valley is not suitable for these licensed events. CHAPTER XIII is directly in front of the National Express bus station and these two incidents caused significant disruption to the bus company, who were unable to run services to Pool Valley. Bus passengers and drivers were put at significant risk and nearby residents and businesses suffered considerable noise nuisance from amplified music. The police had to use up valuable resources to prevent crime and disorder in Pool Valley.

In summary, these incidents prove that the applicant has not demonstrated that they can run a licensed premises in a responsible manner. In addition, the premises lies within the Cumulative Impact Zone and the grant of a full license will increase the potential for further anti-social behaviour and alcohol related crime and disorder in Regency ward.

Regards,

Debbie Gibson-Leigh, Chair Brighton Old Town LAT, Flat 1, Clarendon Mansions, 80 East Street, Brighton, BN1 1NF

Mrs B Pratley
Licensing Authority
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BNI IJP

Date: 29 March 2018
Our Ref: 2018/01582/LICREP/EH
Phone:
Email:

BP CON ENDS 03.04.18 VALID PPN, PCD & CIZ (C)

Dear Mrs Pratley

Licensing Act 2003

Representation in regard to the application to vary a Premises Licence under the Licensing Act 2003 (Ref: 2018/00823/LAPREN)

Re: Chapter XIII, 11 - 12 Pool Valley, Brighton BNI INJ

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 Chapter XIII. The applicant has applied for sale of alcohol on and off the premises between 09.00hrs to 23.00hrs and also regulated entertainment between 09.00hrs and 23.00hrs. On 28 March 2018 an email was received from the applicant asking for the 'off sales' to be removed from the application.

On Saturday 5 August 2017 the day of Pride, I was working with a colleague from the Environmental Protection team and Sussex Police. We were called to Pool Valley. We were faced with a large unlicensed gathering of hundreds of people in the pool valley/coach station area with a DJ and decks on a stage outside the premises. It took a considerable amount of Police and local authority time and resource to clear this area of all the people that had congregated outside Chapter XIII and manage and reduce the risk to public safety and prevent public nuisance. Coaches were backed up along the Old Steine because they were not able to come into the Pool Valley area and coach station. We spoke to the owner of Chapter XIII, Jessica Stocker. She felt it was not her fault or problem, but after being spoken to by Inspector Simon Morgan, she did turn off the music and started to clear the considerable amount of rubbish which consisted of broken bottles and plastic glasses.

On 6 March 2018 I visited the premises of Chapter XIII to speak to Jessica Stocker regarding false claims on her website which included 'Full Alcohol Licence' and '150 capacity plus outdoor space'. I was accompanied by colleagues PC Andre Bernascone from Police Licensing and Pavan Sreen from the Fire Service. Ms Stocker stated that she knew she did not have a full alcohol licence but she would apply for TENS. I advised these were not guaranteed, so she could not state she had a full licence. Pavan Sreen asked her where she got the '150' capacity from. Ms Stocker said I thought that was fine. Pavan advertised her that 60 would be the maximum allowed in the premises. Following this meeting I sent Ms Stocker an email which is attached.

On 7 March 2018 there was a hearing for a TEN application. At that hearing Ms Stocker produced a list of 23 previous TENS dates. I have checked this list against our records and note that on 10 of the dates listed, a TEN was not in place. It is therefore assumed that unauthorised events have taken place between 2015 and 2017.

The application is not very clear. I believe the premise is applying to be a Pub. The applicant has also not demonstrated in her application that she has not taking into consideration the Statement of Licensing Policy and that the premises falls within the Cumulative Impact Area.

This representation is made as the Licensing Team has concerns that the application could have a negative impact on the licensing objectives of prevention of crime and disorder and public nuisance. I also make reference 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. The effect of the SPCI is that applications for new premises licences should normally be refused following relevant representations. This presumption of refusal can be rebutted by the applicant if they can show that their application will have no negative cumulative impact on licensing objectives, including prevention of crime and disorder and public nuisance.

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.

Guidance issued under S182 of the Licensing Act 2003 states in paragraph 8.38 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 8.40 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, a matrix-decision making policy), 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. On looking at the application form, particularly section 16 (licensing objectives), it seems to me that the applicant has little understanding of these points and has not demonstrated a potential exception to our policy.

As well as being located in the CIZ, the premises is situated in the electoral ward of Regency, which according to our Public Health Framework for Assessing Alcohol Licensing 2017 is ranked (out of 21 wards) the worst for 'alcohol suspected ambulance call outs', and second worst for 'police recorded alcohol related incidents', which both further highlight the impact that licensed premises in the area can have on crime and disorder and public nuisance.

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.

I do not believe that the applicant has demonstrated that there are exceptional circumstances to justify departing from the Policy, also taking into consideration previous history at the premises. I therefore request this application is refused in line with our Statement of Licensing Policy and the Matrix approach that in the Cumulative Impact Area a Pub application will not be granted.

Yours sincerely

Donna Lynsdale
Licensing Officer
Licensing Team
Regulatory Services

EMAIL

Hi Jessica

Thank you for meeting with myself, Dean, Police Licensing and Fire Service this morning.

To clarify our conversation regarding your website and following comments from the Fire Service:

PRIVATE EVENT HIRE

Looking for something a little different and alternative for your event?

We offer FREE venue hire for your event

150 capacity plus outside space

Following the Fire Service comments – this is now 60 capacity in total including outside space.

Full alcohol licence & Late opening

This cannot be advertised as you do not have a full alcohol licence. You advertised that this is based on your applying for a TEN for any event. As mentioned TENs are not guaranteed and can be objected to.

Also I advised (and guidance given) this could also constitute an offence under The Consumer Protection from Unfair Trading Regulations 2008.

Full Sound System & Lighting available

Please remember that you have a Noise Abatement Notice which was served on you in 2016. Which is still enforceable. This is also a residential area including hotels.

We love hosting parties!!

You informed me that you will update your website, removing / amending the above. Could you please do these amendments by Thursday, 8 March 2018. Could you also please notify me when this has been done.

I will also forward you Becky Pratley's email regarding your Tattoo Licence separately so you can respond direct to her.

If you have any questions please do not hesitate to contact me.

Kind regards

Donna Lynsdale
Fair Trading Officer
Trading Standards
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton BN1 1JP

Police Station
John Street
Brighton
BN2 0LA

03rd April 2018

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

BP CON ENDS 03.04.18 VALID PPN, PCD, PS & CIZ (D)

Dear Becky Pratley,

RE: APPLICATION FOR A PREMISES LICENCE FOR CHAPTER XIII, POOL VALLEY, BRIGHTON, EAST SUSSEX, BN1 1NJ UNDER THE LICENSING ACT 2003. 1445/3/2018/000823/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, public nuisance and public safety. We also make reference to the Brighton & Hove City Council (BHCC) Statement of Licensing Policy.

This is a proposed new licence application for a premises that is located within Pool Valley 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 Premises

Monday – Sunday: **09:00 – 23:00**

Films - Indoors

Monday – Sunday: **09:00 – 23:00**

Opening Times

Monday – Sunday: **09:00 – 23:00**

The original application included the provisions for Off Sales of alcohol though this has now been withdrawn by the applicant on 28th March 2018.

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”.

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”.

The applicant has not referred to the Cumulative Impact Zone or the BHCC Statement of Licensing Policy (SoLP) in their application. Further, the applicant has not offered comprehensive enforceable conditions to help mitigate any potential risk in a busy and central area of the City. Sussex Police contend that without suitable conditions, the carrying on of licensable activity and hours at these premises will add to the existing negative cumulative effect in an area already saturated with licensed premises.

Within the Public Health Framework, the Regency ward in which this premises is situated is ranked the worst across the City for Violence, Assaults and Sexual Offences which are often alcohol related and as such, is second worst for police recorded alcohol related incidents and A&E attendances as a whole.

There have been two previous incidents where Police have been called to the premises where unlicensed activities were taking place.

On the Saturday of Pride, 6th August 2016, Police were called to the premises after intelligence was received that a large number of people had gathered with a huge scaffolding stage area with DJ’s. Police supported the Local Authority to close the party and remove the large number of people from the locale.

A second incident occurred on Saturday 5th August 2017 during a period where a TEN had been granted by the Licensing Committee Panel on the understanding there would be no speakers outside with only background music playing. A visit at 18:30 by Inspector Morgan and Licensing Officers found there was 600-800 people gathered in Pool Valley outside the premises with loud music being played. The applicant, Ms Stocker was told that the music needed to be turned off as it was unlicensed which she was reluctant to do. Due to the nature of the crowds a coach was unable to access the Pool Valley Bus Station and there was a risk to public safety and the potential for crime and disorder.

There has been some communication with the applicant but assurances have not been given in regards to how the venue will be setup. No conditions confirming the premises will be operated as a café bar have been offered by the applicant. Following the events over previous Prides and further dealings with the applicant, Sussex Police do not feel confident in the management and running of this premises should it be granted an alcohol licence.

Sussex Police invite the Licensing Authority to seriously consider refusing this application however, should the panel wish to grant the licence, Sussex Police would like to have the opportunity to provide a list of suggested appropriate conditions for the panel to review and attach to the licence.

Yours sincerely, Lisa Bell Chief Superintendent Brighton & Hove Division Sussex Police