

APPENDIX C

Police Station

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18th August 2021

The Licensing Technical Support Officers
Environmental Health, Brighton & Hove City Council
Bartholomew House, Bartholomew Square
Brighton, East Sussex
BNI IJP

Dear Emma Grant,

**RE: APPLICATION FOR A NEW PREMISES LICENCE FOR O'DONNELL
MOONSHINE LTD, 5 HANNINGTONS LANE, BRIGHTON, EAST SUSSEX,
BNI IGS UNDER THE LICENSING ACT 2003. 1445/3/2021/02574/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 and the protection of children from harm. 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 (**Off** the premises)

Everyday: 09:00 – 21:00

Opening hours

Everyday: 09:00 – 21:00

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.

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.'

The applicant did not pre consult with Sussex Police and has 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 offers minimal workable conditions and Sussex Police do not believe these go far enough to help mitigate any potential risk in this area of the City. The conditions offered fall far short of the current city wide expected standard and there is no mention of any crime prevention measures such as CCTV provision, SIA risk assessment/provision or regular staff training around the sale of alcohol – '12 monthly intervals' would be viewed as too great an interval for a time limited licence lasting for 4 months in total.

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.

Sussex Police do not believe the application addresses the concerns raised and therefore is at risk of undermining the prevention of crime & disorder and the protection of children from harm 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,

A/Chief Insp Andrew Westwood

Response & Operations

Brighton & Hove Division

Sussex Police

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

Mrs Emma Grant
Licensing Officer
Licensing Team, BHCC
Bartholomew House
Bartholomew Square
Brighton
BNI IJP

Date: 31 August 2021
Our Ref: 2021/02574/LAPREN
Phone: 01273 292100
Email: Jo.osborne@brighton-hove.gov.uk

Dear Mrs Grant,

Licensing Act 2003

RE: Representation in regard to the application for a new Time Limited Premises Licence (Ref. 2021/02574/LAPREN)

O'Donnell Moonshine, 5 Hanningtons Lane, Brighton BNI IGS

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 Time Limited Premises Licence for O'Donnell Moonshine.

The applicant is applying for supply of alcohol off the premises from 0900hrs to 2100hrs every day, with the same opening hours. The premises would be used as a temporary pop up retail unit, occupied for this purpose for four months. O'Donnell Moonshine are handmade spirits originating in Manchester, being sold as different flavoured liqueurs all 20% ABV or higher. The premises is located within the city's Cumulative Impact Zone.

I have concerns about this application and make a representation on the grounds of the Prevention of Crime and Disorder and Protection of Children from Harm and that this application is contrary to our Statement of Licensing Policy (SoLP).

The council introduced a special policy to address cumulative impact on the 13th March 2008 and following further consultation the cumulative impact zone was expanded in December 2011. 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 special policy will only be overridden in exceptional circumstances. New applications and variations to existing 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 the 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 special policy in the light of the individual circumstances of the case.

The Council's SoLP 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. Each application is still considered on its individual merit and there is discretion to depart from the Matrix approach policy in exceptional circumstances.

When considering whether representations should be submitted, the Licensing Team have regard to the 'Public Health Framework for assessing Alcohol Licensing' – January 2019 document. The premises sits within the electoral Regency Ward, which according to our Public Health Framework for Assessing Alcohol Licensing (5th edition- January 2019) is ranked the worst out of 21 wards under Crime and Disorder data for all violence against the person, all injury violence, non-injury assault and sexual offences. This ward is ranked second worst for police recorded alcohol related incidents. Within the Health data, Regency Ward ranks the second worst for Increasing risk or higher risk drinking and Alcohol suspected ambulance call outs, behind St Peter's and North Laine which is the neighbouring ward. The ward is also second worst for A&E attendances with a record of alcohol.

I make this representation to uphold our Statement of Licensing policy. The Policy's Matrix approach for licensing decisions on page 18 states that no licences for off sales are to be granted within the CIZ and that applications will be refused unless the applicant can demonstrate exceptional circumstances. It is up to the applicant to demonstrate this and satisfy a Licensing Panel that they will not impact negatively on the CIZ, which I do not feel that they have done within their application.

Granting this application is likely to add additional burdens and problems to an already challenging area at a time of year when the city is at its busiest with people socializing for Christmas and New Year. Although the applicant has put a number of provisions in their operating schedule, I am of the opinion that this application should be considered and determined by a Licensing Sub-Committee Panel in line with 3.1.6 of our SoLP.

Yours sincerely,

A rectangular box containing a handwritten signature in black ink that reads "Jo Osborne".

Jo Osborne
Licensing Officer

APPLICANT'S RESPONSE TO THE REPRESENTATIONS

From: REDACTED TEXT

Sent: 07 September 2021 15:11

To: Jo Osborne <Jo.Osborne@brighton-hove.gov.uk>; brighton.licensing@sussex.pnn.police.uk; Emma Grant <Emma.Grant@brighton-hove.gov.uk>

Cc: REDACTED TEXT

Subject: O'Donnell Moonshine - Temporary Premise License Application 5 Hanningtons Lane - Proposed Amendements and points of Exclusivity

Hello Claire/Jo/Emma,

Good to speak you all over the last couple of days regarding our temporary premise license application in 5 Hanningtons lane for an off-site consumption shop for O'Donnell Moonshine. Firstly, I wanted to apologise that I have not been as informed as I should have been about the particulars of the location of the unit. I really want to make this work and the scarce information in the application was by no means a sign of me not taking it seriously but rather a lack of expertise of premise license application completion.

I have now made up for this and read the SoLP for Brighton & Hove and suggest the following amendments to our premise application to elevate some of the concerns regarding our application. Further, I have also put together a few points to highlight to you our uniqueness and why it would be great for Brighton to have our brand in for the Christmas period.

Proposed amendments to the temporary premise license application to cater better for the special requirements of the CIZ:

- Opening Hours:

In light of most alcohol related crimes taking place after 21h in the timeframe of our Pop-Up Shop according to the SoLP I propose to amend our operating & opening hours to 11:00h - 20:00h Monday - Saturday and 12:00 - 18:00h on Sundays to remove a potential cumulative impact of our shop.

- CCTV:

We will install a system of CCTV to be in line with the city wide standards for the prevention of crime & violence.

- Solely on-site purchases:

There will be **no alcohol delivery services** operated from this premises and its solely a 'purchase-in-store' concept.

- **Alcohol Staff Training:**

Training regarding alcohol licensing objectives & i.p. proxy sales will be provided in depth before staff start and to be refreshed every 6 weeks for the duration of the shop being open, and records be kept and made available upon request from local authorities.

- **Voluntary restriction of high strength alcohol:**

We limit our product range to **exclude our strongest ABV product** 'High High Proof' which has an ABV of 72%.

- **Signage in store:**

Signage will be installed at a visible place in the store outlining legal duties around alcohol sales and 'proxy sales'.

If you feel there are further conditions necessary I'm more than thankful for any further guidance here. I understand that there a hearing is now scheduled for 28.09.21, however it would be highly appreciated if there was a way to get agreement prior to the hearing it would be highly appreciated as our rental contract and therefore the associated costs starts on 15.09.2021. I fully appreciate this might not be possible but if there was a way it would help a small brand like ours tremendously to limit the financial impact of a trading loss of at least 2 weeks.

Further, I put together a few more detailed bullet points regarding our brand and why I believe that there will be no negative impact on the the city of Brighton by having us operating in a Pop-Up unit:

- We have **extensive experience with alcohol trade at busy events** (Large Christmas markets such as Manchester, York or Edinburgh and large events such as BBC Good Food shows etc.) with no issues regarding crime or violence at all. Our staff is trained well and we always operate a strict challenge25 policy with no underaged people allowed at the stalls/shop unless accompanied by their legal guardian.
- **The application is temporary** and will not last beyond 16.01.2022 which in our eyes will underline the character of it being a pop-up shop for Christmas shopping rather than to become a potential hotspot for people to seek a an opportunity to get intoxicated within the city centre of Brighton and potentially cause issues to the wider community.
- O'Donnell Moonshine is the **only UK based Moonshine company** providing its customers with a historic & cool drink adapted to the 21st century and therefore adding a complete new facet to the UK drinks market. Brighton has been chosen as the first location for a pop-up shop outside of Manchester due to the vibrant and open minded society with a very cool setting of the Lanes.
- We provide a **unique taste experience** paired with a **unique packaging** which is designed for 'at home consumption' or 'as the perfect Christmas gift' and therefore **adds to the attraction of Brighton City Centre** as shopping location in the lead up to Christmas.

- We have a product range of 8 flavoured Moonshine liqueurs (20-25% ABV) and 1 clear Moonshine (50% ABV) Spirits bottled in traditional 700ml traditional Mason Jars catering for all different tastes. Our products sit in the **premium price segment** starting from £21.90 (for 4x 50ml) and ranging all the way to £119 which makes the drink an enjoyment and a treat.
- The wide opening of our traditional Mason Jars makes an **easy consumption difficult** without our own designed pouring lid. This will also be sold at £2.90 a piece further increasing the price for a normal drinking experience to almost £30 per jar.
- We take a lot of pride in producing a **sustainable product** (as little plastic as possible by using card board boxes and bags, reusable glass jars & recyclable taster shot cups).

Thank you all for taking the time speaking to me and giving me some guidance on how this could be resolved. Please do not hesitate to contact me with your questions or comments. I'm more than happy to chat further should there be aspects not considered from our end. I would appreciate some feedback on the above (email or phone whatever is easiest). I trust that email format is sufficient if you require me to put this in a different form or format please let me know.

@Claire: as discussed it would be great to get some guidance as to what CCTV system would be considered acceptable for the local police authorities.

Best regards,

REDACTED TEXT

Managing Director
O'Donnell Moonshine Ltd.

REDACTED TEXT