

**BRIGHTON & HOVE CITY COUNCIL**  
**LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)**

**10.00am 10 DECEMBER 2021**

**VIRTUAL VIA MICROSOFT TEAMS**

**MINUTES**

**Present:** Councillors Deane (Chair), Simson and Appich

**Officers:** Sarah Cornell (Senior Licensing Officer), Rebecca Sidell (Lawyer) and Clare Chapman (Democratic Services Officer)

**PART ONE**

**1 TO APPOINT A CHAIR FOR THE MEETING**

Councillor Deane was appointed Chair for the meeting.

**2 PROCEDURAL BUSINESS**

**2a Declaration of Substitutes**

2.1 There were none.

**2b Declarations of Interest**

2.2 There were none.

**2c Exclusion of the Press and Public**

In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

2.3 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of Item 3 onwards.

**3 REVIEW OF PREMISES LICENCE UNDER THE LICENSING ACT 2003: MY YUMMIE PIZZA, LONGRIDGE AVENUE, SALTDEAN, BRIGHTON**

**In attendance**

Applicant for Review: PC Staplehurst and PC Hancock (Sussex Police)

For the Premises: Khaled Mohamed (Licence Holder)

Making Representation: Donna Lynsdale (Licensing Authority)

- 3.1 The Panel considered a report of the Executive Director, Housing, Neighbourhoods and Communities requesting that they determine an application from Sussex Police to review the Premises Licence.

**Officer Presentation**

- 3.2 The Senior Licensing Officer, Sarah Cornell, presented the application and summarised the contents of the report.
- 3.3 One representation had been received from the Local Licensing Authority on the grounds of the Prevention of Crime and Disorder, the Prevention of Public Nuisance and the Protection of Children from Harm, supporting the application submitted by Sussex Police seeking the revocation of the licence.

**Applicant for Review**

- 3.4 PC Staplehurst addressed the Panel. The police had called for the review of the licence on the basis of persistent breaches of the licensing conditions, complaints of anti-social behaviour and noise from residents which were associated with the premises and delivery drivers, a serious incident and high drug readings taken at the premises. PC Staplehurst maintained that the number of breaches, complaints and incidents within a relatively short period, and failure to rectify these, showed very poor management and she had no confidence in the current licence holder to manage the premises effectively. Breaches of the licensing conditions included inadequate operation of CCTV, inadequate incident log, no SIA risk assessment and no "Leave quietly" signs on display.
- 3.5 In response to a question from the Panel, PC Staplehurst confirmed that drugs readings on the table and till could have occurred through transfer of materials e.g. bank notes, and that readings of 4 and above were high enough to be almost visible.
- 3.6 In response to a question from the Panel, PC Staplehurst advised that the applicant had not provided any mitigating reasons for the breaches.
- 3.7 In response to a question from Mr Mohamed, PC Staplehurst stated that the toilets which had been subject to swabbing were accessible to staff and customers.

**Licensing Authority**

- 3.8 The Licensing Authority was concerned about breaches of the licensing conditions and the Licence Holder's failure to uphold the licensing objectives. Despite their concerns

being brought to Licence Holder's attention, there had been no resolution. The Licensing Authority had no confidence in the Licence Holder to operate responsibly and predicted further problems should the licence remain in place. The Licensing Authority fully supported the application from Sussex Police.

- 3.9 In response to a question from the Panel, Ms Lynsdale stated that she had carried out a check of the website 'Just Eat' where they were advertising that the premises were open to the public until Midnight, and for delivery past 1am despite a terminal hour of 11pm. In an email to the Licence Holder she mentioned it was alleged that trading was taking place beyond licensable hours. The Licence Holder did not respond to this email.

### **License Holder**

- 3.10 The licence holder apologised for the issues raised by the police and licensing authority. He said he found communication by email difficult and preferred to do things manually. He said that the noise complaints related to one occasion when youths gathered outside the premises at 10pm and he tried to calm them down. He did not appreciate the issues with the CCTV or how to rectify them. He said he had made some changes to surfaces to discourage drug use and had now sorted out the CCTV and other issues. With regard to the hours advertised on Just Eat, he explained this had been set up by the previous owner and he had since asked his daughter to change the timings. He admitted that he was at fault and asked the Panel to give him another chance.

### **Closing Submissions**

- 3.11 Each of the parties were given the opportunity to make their closing submissions and each reiterated the points they had made during the meeting. The Panel then retired to make their decision which is set out below.

### **Decision**

- 3.12 That the Premises Licence in respect of My Yummie Pizza, 41 Longridge Avenue, Saltdean, Brighton, BN2 8LG, be revoked.

### **Reasons**

The panel has considered this application for review, supporting representation, and all submissions made at the hearing. The panel has had regard to the S182 Guidance and the Council's Statement of Licensing Policy.

The review is brought by Sussex Police on the basis of the Prevention of Crime and Disorder, Prevention of Public Nuisance and Public Safety licensing objectives. A representation supporting the review was made by the Licensing Authority.

My Yummie Pizza has a premises licence for late night refreshments after 11pm for deliveries only granted in July 2020. The police have called for the review of this licence on the basis of persistent breaches of the licence conditions, complaints of anti-social behaviour and noise from residents which are associated with the premises and delivery drivers, a serious incident and high drug readings taken at the premises. These are all documented in the papers. They maintain that the number of breaches, complaints and

incidents within a relatively short licence period and failure to rectify these shows very poor management and they have no confidence in the current licence holder to manage the premises effectively. The only appropriate step in response to the review therefore is revocation of the licence. The Licensing authority supports this position.

The licence holder apologised for the issues raised by the police and licensing authority. He said he found communication by email difficult and preferred to do things manually. He said that the noise complaints related to one occasion when youths gathered outside the premises at 10pm and he tried to calm them down. He did not appreciate the issues with the CCTV or how to rectify them. He said he had made some changes to surfaces to discourage drugs and had now sorted out the CCTV and other issues. He asks to be given another chance.

The panel must take such statutory steps under the Licensing Act 2003 in response to the review as are appropriate to promote the licensing objectives. The panel have also considered the Council's Statement of Licensing Policy and enforcement approach and the S182 Statutory Guidance in relation to reviews.

The panel has listened very carefully to all the submissions made. We have considered all the options available to us. The panel is concerned that the licence was applied for and granted in July 2020 following a police visit to the premises when it was found to be trading beyond 11pm without a licence, and that since the grant of the licence there have been continuing breaches of conditions notably CCTV, issues and complaints. The visit from the police in August 2020 highlighted breaches and drew these to the licence holder's attention but no action was taken to rectify these. There were then complaints from residents and indications that the premises was trading beyond its hours of licence. Inadequate operation of the CCTV meant that the investigation of a serious incident at the premises was hampered. A further visit by the police in September 2021 found the same breaches again identified along with high drug readings.

The panel does not on the whole find the explanations from the licence holder to be credible or persuasive in all the circumstances. There have been repeated interventions and warnings from the police and licensing authority but no effective action taken despite these. The panel is also concerned about the complaints received from residents and consider that the licence holder has been too dismissive of these and it appears the complaints are ongoing. In our view yellow cards have been shown already. The panel does not consider that the imposition of further conditions would be effective as the existing ones have not been complied with. It is not clear also what purpose a period of suspension of the licence would serve. The panel consider that the licence holder has shown a lack of awareness of his responsibilities as a licence holder and has failed to operate his licence in a responsible manner in accordance with the terms and conditions on the licence. Regrettably the panel does not have confidence in his ability to promote the licensing objectives going forward. We are concerned that if the premises continues to trade beyond 11pm there is a strong likelihood of the licensing objectives being further undermined. The panel thus agree with the police and licensing authority that the only appropriate step in this case in order to promote the licensing objectives is to revoke the licence.

**Note:** The Legal Adviser to the Committee confirmed that the decision letter to the applicants would include details of the appeal rights available to them.

The meeting concluded at 11.05am

Signed

Chair

Dated this

day of