

# Licensing Panel (Licensing Act 2003 Functions)

**Agenda Item 9**  
Brighton & Hove City Council

<b>Subject:</b>	<b>Review of a Premises Licence under the Licensing Act 2003</b>		
<b>Premises:</b>	<b>Wimpy 14 Station Road Portslade BN41 1GA</b>		
<b>Premises Holder:</b>	<b>Licence</b>	<b>Mr Kapilraj Vigneswaran</b>	
<b>Date of Meeting:</b>	<b>7 July 2020</b>		
<b>Report of:</b>	<b>Interim Executive Director for Housing, Neighbourhoods &amp; Communities</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Mark Savage-Brookes</b>	<b>Tel: (01273) 292100</b>
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<b>Ward(s) affected:</b>	<b>South Portslade</b>		

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## **1. PURPOSE OF REPORT AND POLICY CONTEXT**

1.1 To review a Premises Licence for Wimpy under the Licensing Act 2003.

## **2. RECOMMENDATIONS:**

2.1 That the Panel review the licence granted to the premises known Wimpy under the Licensing Act 2003.

## **3. CONTEXT/ BACKGROUND INFORMATION & CONSULTATION**

3.1 Existing licence attached at Appendix A.

3.2 Brighton & Hove City Council is both the relevant licensing authority and a responsible authority in respect of any premises, and may in its capacity apply under Section 51 of the Licensing Act 2003 for a review of any premises licence in respect of the premises.

3.2.1 An application was received by the Licensing Authority on 15 May 2020 from Sussex Police, to review the licence granted to the premises known as Wimpy, 14 Station Road, Portslade, BN41 1GA.

3.3 The grounds for the review relates to the following Licensing objectives

- The Prevention of Crime and Disorder

- Public Safety

Full details of the grounds for the review are in Appendix B

3.4 At this hearing the licensing authority must:

- Consider the application made in accordance with Section 51
- Consider any relevant representations
- Take such steps (if any) as are considered appropriate for the promotion of the Licensing objectives. These steps are
  - to modify the conditions of the licence
  - to exclude a licensable activity
  - to remove the designated premises supervisor from the licence
  - to suspend the licence for a period not exceeding 3 months, or
  - to revoke the licence.

And for this purpose the conditions of a premises licence are modified if any of them are altered, omitted or any new condition is added. It may provide that the modification or exclusion have effect for a specified period not exceeding 3 months. The determination, if not completed at the hearing, shall be within 5 working days of the hearing. Such determinations do not have effect until after the appeal period or, if an appeal is lodged, until after the appeal is disposed of.

### **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 Two representations have been received, from the Home Office and The Licensing Team on the grounds of the Protection of Crime & Disorder supporting the application submitted by Sussex Police.

3.7 Full details of the representations are attached at Appendix C. A map detailing the location of the premises is attached at Appendix D.

## **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. 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) Prevention of Crime and Disorder**
- (b) Public safety**
- (c) Prevention of Public Nuisance
- (d) Protection of Children from Harm

### **1.3 Scope**

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.

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

4.1.1 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.

4.1.2 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.

4.1.3 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.

4.1.4 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.

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

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.

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

## **5 Public Safety**

5.1 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.

5.1.3 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 aider

## **8 Integration of Strategies**

8.1 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

8.2 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.

## **8.8 Enforcement**

8.8.1 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.

8.8.2 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 31
- Drugs and alcohol strategies – local alcohol harm reduction strategy
- Objectives of the Private 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

## **9. Reviews**

9.1 Reviews represent a key protection for the community. Where the licensing authority considers action necessary under its statutory powers it will take necessary steps to support the licensing objectives. Action following review will be informed by licensing enforcement policy – please refer to appendix B of SoLP.

9.2 Where style of operation of a premises leads to applications concerning likelihood of racist, religiously motivated, homophobic or transphobic crimes or incidents, the review process should also support the community safety policy. Action should be proportionate and licences would normally be suspended or revoked in these circumstances to deter further incidents

## **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: 16/06/20*

### 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: 17/06/20*

### 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:**

Appendix A – Part A of Premises Licence

Appendix B – Review Application

Appendix C – Representations

Appendix D – Map of area

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

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2016, revised January 2019.

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 2016, revised January 2019.

