

# ARUN DISTRICT COUNCIL

## LICENSING SUBCOMMITTEE – 5 APRIL 2019

### PART A: REPORT

**SUBJECT:** Application for a Review of a Premises Licence

**REPORT AUTHOR:** Glenn James, Licensing Officer

**DATE:** 18 February 2019

**EXTN:** 37681

**PORTFOLIO AREA:** Place

**EXECUTIVE SUMMARY:** This report asks Members to consider the matter of an application for the review of a premises licence for The Unicorn, 76 High Street, Bognor Regis PO21 1RZ.

Please note this matter had previously been scheduled to be considered on 8 March 2019 but had been deferred at the request of the Premises Licence Holder.

**RECOMMENDATIONS:** It is recommended that the Members consider the application and evidence and make an appropriate determination, justified as being appropriate for the promotion of the licensing objectives.

The Subcommittee may only consider matters referred to in representations relevant to the promotion of one or more of the four licensing objectives. These must be considered in the context of what is relevant to the review application.

### 1. BACKGROUND:

#### 1.0 Introduction

- 1.1 This is an application for a review of a premises licence which has been received from a local resident (see appendix 1).
- 1.2 The Unicorn is a premise situated on the High Street, Bognor Regis (see appendix 2). The High Street consists of many business premises including other Alcohol Licensed Premises. The business is the holder of a Premises Licence which was first issued in 2005 on transfer from a Justices Licence. Subject to a number of variations the Premises Licence Holder (PLH) is now Chambers Properties Ltd of which Mr Mulhern is a Director.
- 1.3 On 25<sup>th</sup> January 2019 following discussions with Sussex Police an application to vary the premises licence was made (see appendix 3). Following the relevant consultation period the variation to the licence was granted (see appendix 4). The PLH agreed to the following conditions to be added to the licence:-
  - (a) CCTV being installed in the premises;
  - (b) Door staff on Fridays and Saturdays if the premises is open after 11.00 p.m

- (c) Door staff when the premises is open for special events/days
- (d) Risk assessment of all licensable activities undertaken at the premises and controls to promote the licensable objectives
- (e) Premises to be an active member of Pub Watch
- (f) Operate a zero tolerance to drugs and drug misuse at the premises
- (g) Adopt a 'Challenge 25' policy and display appropriate signage
- (h) All staff engaged in selling alcohol shall receive appropriate training and have retraining
- (i) All training to be fully documented and made available to officers of any responsible authority
- (j) An incident log to be maintained at the premises and detail all incidents that occur in and immediately outside the premises

1.4 On 19<sup>th</sup> February an email was received from Mr Mulhern explaining details of a project plan showing how the management has dealt with issues relating to the premises.

1.5 The applicant has kept diaries of incidents relating to the area and premises and has provided video footage.

1.6 Representations in support of the application for the review have been made by Arun District Council Licensing Team and Sussex Police as responsible authorities.

1.7 A further representation in support of the application has been received from a member of the public.

## **2.0 Relevant Representations**

2.1 The grounds for seeking the review are the Prevention of Crime and Disorder and Prevention of Public Nuisance and are contained in the review application.

2.2 The grounds for making representations from Arun District Council Licensing Team are the Prevention of Public Nuisance and Public Safety.

2.3 The grounds for relevant representations from Sussex police are the Prevention of Crime and Disorder, Prevention of Public Nuisance and Public Safety.

2.3 A summary of the representations are as follows:-

(a) Applicant:-

(i) Noise nuisance caused by music and noise from customers inside the premises.

(ii) Public order issues relating to persons leaving the premises

(iii) Staff not taking control or management of customers' behavior

(b) ADC Licensing:-

(i) Public order issues relating to persons leaving the premises.

(ii) Noise nuisance caused by music and noise from customers inside the premises. No intervention by door staff to request customers when leaving the premises to be quiet and respect neighbours

(iii) Staff not taking control or management of customers' behavior.

(c) Sussex Police:-

(i) Public order issues relating to persons at or on the premises

(ii) Lack of co-operation by staff with police investigations following incidents on or outside the premises

(iii) Lack of control and management of customers inside and outside the premises

Member of public:-

(i) Public order issues relating to person at or on the premises

(ii) Lack of control and management of customers inside and outside the premises

(iii) Noise and disturbance from customers at or on the premises.

2.4 On 21<sup>st</sup> February 2019 representations supporting the premises were received in petition form and also from local individuals. A summary of these representations is below

	Summary of comments
37 x signatures on a petition from football teams	Premises supports and funds three football teams and is a community based premises for all
6 x signatures on a petition	Book club supported by the Unicorn
13 x taxi drivers	Night time drivers feel premises is being targeted for anti-social behaviour in the area
Melissa Woods	Problems are associated with people walking past the Unicorn
R & J Williams	Problems occur after Unicorn is closed by people coming from direction of Waterloo Square
Mel Davis	Licensee is a valuable neighbour and helpful
Andy Edmonds	Unicorn being targeted unfairly
Derek Clift	Owners of premises very helpful.
Liam Griffiths	Asset to the community and welcoming
David Usher	Problems are associated with people walking past the Unicorn
P Parker	Problems are associated with people walking past the Unicorn and after premises are closed

### 3.0 POLICY CONSIDERATIONS

3.1 Relevant extracts from Arun District Council's Licensing Principles are shown in this

section.

(5.1) The main principles of the policy are:-

- to reduce the fear of crime;
- to encourage cultural diversity and lively, safe town centres;
- to reduce the burden of unnecessary regulation on business;
- to contribute to the quality of life;
- to promote public health;
- to ensure that premises are being managed responsibly;
- to ensure the promotion of the licensing objectives

(523) The Policy is also intended to ensure that the provision of additional opportunities for licensable activities are matched by appropriate and proportional measures enabling the police and licensing authorities to act promptly to maintain public order and safety.

(5.10) Arun District Council acknowledge that licensing law is not a mechanism for the general control of anti-social behaviour by people once they are beyond the direct control of the individual, club or business holding a licence, certificate or relevant permission. However, the Licensing Authority believes a level of responsibility for customer or member behaviour clearly exists beyond the site boundary. The Licensing Authority will seek compelling evidence linking incidents that occur away from particular premises when making decisions concerning licences, certificates or notices. The control of anti-social behaviour away from licensed premises, qualifying clubs and temporary events is primarily a matter for the Police but the individual, club or business holding a licence, certificate or relevant permission will be expected to work in co-operation with the Police to ensure that, wherever possible, anti-social behaviour away from premises and events is minimised.

8.2 The licensing committee or its subcommittee licensing authority is only able to impose additional conditions that are clearly proportionate and appropriate following relevant representation made to the authority or that are agreed with the applicant. Such conditions will only be imposed if appropriate for the promotion of the licensing objectives. The licensing authority may act in its capacity as a responsible authority and raise representations in relation to an application if it deems it appropriate to do so.

11.5 The Council may require stricter (noise) conditions where the premises are situated in an area primarily of a residential nature.

(Licence Review Guidelines)

The Licensing Committee and any of its Subcommittees, when holding licence review hearings, will follow these guidelines so as to maintain a degree of consistency and transparency when making decisions. The Committee

reserves the right to amend and republish these guidelines in light of operational experience and as a separate document to the statement of licensing policy. In reaching a decision the committee will take into account any of the aggravating or mitigating factors below but may also consider other relevant evidence before them. Likewise, they can consider any other proportionate and appropriate action as allowed under the Licensing Act 2003. Section 182 guidance will also be considered in conjunction with this policy.

**Relevant representation received regarding The Prevention of Crime and Disorder**

Aggravating Factors	Mitigating Factors
<p>Failure to cooperate with Police</p> <p>Encouraging or inciting criminal behaviour associated with licensed premises</p> <p>Serious injury results</p> <p>Encouraging or inciting</p> <p>Confidence in management ability to rectify defects</p> <p>Previous track record</p> <p>Voluntary anti-social behaviour associated with licensed premises (this might also include incidents in the locality)</p> <p>High rate of turnover of Licence holder/ designated premises supervisor</p> <p>Incidents not reported to police</p>	<p>Good controls, practices and training in place</p> <p>Willingness to attend and cooperate during mediation steps</p> <p>Previous track record</p>

**Relevant representation received regarding Public Safety**

Aggravating Factors	Mitigating Factors
<p>Death or serious injury occurred</p> <p>Substantial risk to public safety, in the view of a responsible authority involved</p> <p>Previous warnings ignored</p> <p>Review arose out of wilful/deliberate disregard of licence conditions</p>	<p>Minor or technical breach of licence condition</p> <p>Confidence in management to rectify defects</p> <p>Confidence in management to avoid repetition of incident</p> <p>Good controls, practices and training in place</p> <p>Voluntary acceptance/proposal of additional conditions</p>

**Relevant representation received regarding The Prevention of Public Nuisance**

Aggravating Factors	Mitigating Factors
<p>Noise late at night (especially if in breach of any condition)</p> <p>Previous warnings ignored</p> <p>Long and prolonged disturbance</p> <p>Poor procedures and controls for preventing (as far as is reasonably practicable) 'off premises' disturbance from customers leaving the premises/event</p> <p>Excessive nuisance emanating from premises during unsocial hours</p> <p>Litter problems (especially if in breach of any condition)</p>	<p>Noise limiting device installed</p> <p>Appropriate apology given to those disturbed by nuisance and nuisance subsequently ceased</p> <p>Complaints telephone/hotline available and communicated to complainants</p> <p>Short-term disturbance</p> <p>Undertaking/commitment not to repeat activity leading to disturbance</p> <p>Willingness to attend and cooperate during mediation steps</p> <p>Good controls, practices and training in place</p> <p>Voluntary acceptance/proposal of additional conditions by way of formal change to licence/certificate</p>

**Relevant representation received regarding Protection of Children from Harm**

Aggravating Factors	Mitigating Factors
<p>Age of Children</p> <p>Previous warnings ignored</p> <p>Children exposed to physical harm/danger as opposed to other threats</p> <p>Activity arose during normal school hours</p> <p>Deliberate or wilful exploitation of children</p> <p>Large number of children affected</p> <p>Children not allowed on premises as part of operating schedule</p> <p>Involves under-age exposure to alcohol</p> <p>Inappropriate or inadequate ratio of adults to children</p>	<p>Conduct occurred with consent of person with parental responsibility for child</p> <p>Short duration of event</p> <p>No physical harm</p> <p>Short-term disturbance</p> <p>Undertaking/commitment not to repeat activity</p> <p>Voluntary acceptance/proposal of additional conditions</p> <p>Children permitted on the premises as part of operating schedule</p> <p>Good controls, practices and training in place for preventing harm to children</p> <p>Not involving under-age exposure to alcohol</p>

#### 4.0 OBSERVATIONS

4.1 The Subcommittee is obliged to determine the application with a view to promoting the licensing objectives, which are:

- i) The Prevention of Crime and Disorder
- ii) The Prevention of Public Nuisance
- iii) Protection of Children from Harm
- iv) Public Safety

4.2 In making its decision the Subcommittee is also obliged to have regard to national guidance and Arun's Statement of Licensing Policy.

4.3 The Subcommittee must also have regard to all relevant representations and evidence that it hears

**2. PROPOSAL(S):** To consider the application with a view of the licensing objectives and make an appropriate decision from the options available at section 3 of this report.

#### 3. OPTIONS

- i) To revoke the premises licence
- ii) Suspend the licence for a period not exceeding three months
- iii) Remove the Designated Premises Supervisor
- v) Modify the conditions of the licence
- vi) Take no further action

#### 4. CONSULTATION: Not Applicable

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council	✓	
Relevant District Ward Councillors	✓	
Other groups/persons (please specify)	✓(public advert)	

5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial		x
Legal		x
Human Rights/Equality Impact Assessment		x
Community Safety including Section 17 of Crime & Disorder Act		x
Sustainability		x
Asset Management/Property/Land		x
Technology		x
Other (please explain)		x

**6. IMPLICATIONS:**

**7. REASON FOR THE DECISION:** The Council has a statutory duty to determine the application and give full reasons for their decision.

**APPENDICES:**

- 1 Application for review
- 2 Map of area
- 3 Application to vary the licence
- 4 Copy of the Premises Licence

**BACKGROUND PAPERS:**

Licensing Act 2003  
Section 182 Guidance  
Arun District Council Statement of Licensing Policy