

Review of a Premises Licence in respect of Brunel News, Unit 2D, 2 Havelock Square, Swindon, SN1 1LE

Licensing Panel

Date: 9th May 2017

Author:	Kathryn Ashton – Licensing Manager
Wards:	Central
Locality Affected:	Central
Parishes Affected:	None

1. Purpose and Reasons

- 1.1 To consider the application for a review of a premises licence received from the Wiltshire Police in respect of Brunel News , Unit 2D, 2 Havelock Square, Swindon, SN1 1LE

2. Recommendations

It is recommended that the Panel:

- 2.1 Considers the application made by the Wiltshire Police together with any supporting evidence, and determines the application for the review of the premises licence. The options available to the Panel are:
- To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition;
 - To exclude a licensable activity from the scope of the licence;
 - To remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - To suspend the licence for a period not exceeding three months;
 - To revoke the Licence

3.0 Detail

- 3.1 An application for the review of a premises licence in respect of Brunel News , Unit 2D, 2 Havelock Square, Swindon, SN1 1LE has been received from Wiltshire Police who consider that the licensing objective in respect of the prevention of crime and disorder is being undermined by current licensable activities at the premises. A copy of the review application is attached as **Appendix A**.
- 3.2 Brunel News is a licensed premises, operating under a premises licence (ref: 881130405LAPRE), attached as **Appendix B**. The licence was issued on 18th September 2013 and authorises the sale of alcohol Sunday to Tuesday from

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager on 01793 466113, or by email: kashton@swindon.gov.uk

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07.00hrs to 23:00hrs; Wednesday to Saturday from 07.00hrs to 19:00hrs and Sunday prior to a Bank Holiday Monday from 07:00hrs to 21:00hrs. The opening hours of the premises are Sunday to Tuesday from 07.00hrs to 23:00hrs; Wednesday to Saturday from 07.00hrs to 22:00hrs and Sunday immediately prior to a Bank Holiday Monday from 07:00hrs to 23:00hrs. The Premises Licence Holder is Mr Soner Dogan, the Designated Premises Supervisor specified on the licence is Mr Ali Kabala.

3.3 The grounds for the review are stated in the Police's application as follows:

3.3.1 On 26th April 2016 Wiltshire Police Licensing Officer Sian Kalyuka conducted a routine visit at the premises. A male working at the premises stated he had received no training about his responsibilities around the sale of alcohol. He had worked at the premises for around 6 months. Mr Soner Dogan was contacted and a licensing check was conducted. After speaking with Mr Dogan no training records could be produced.

As a result of the licensing check a number of licensing conditions were being breached namely conditions 10 and 11.

10. Staff selling alcohol shall be subject to refresher training every six months and records of training shall be retained on the premises. Records of training shall be made available to enforcement officers on request.
11. Suitable staff training shall be completed by any new employee prior to beginning their first shift to prevent the sale of alcohol to customers who are already intoxicated. This training shall be documented and refresher training undertaken at no greater than 6 monthly intervals. All training records shall be retained on the premises and made available to enforcement officers on request.

3.3.2 Mr Dogan was unable to produce a Challenge 25 policy. Conditions 8 and 9 on the premises licence states:

8. A refusals book shall be kept on the premises to record any refusal to sell alcohol. The time, date, name of person refusing the sale and reason for refusing the sale shall be recorded in the refusals book. The refusals book shall be made available for inspection by a police constable or authorised officer on request.
9. A Challenge 25 policy will apply to the premises and all staff serving alcohol shall be trained in the operation of the scheme so that anyone attempting to buy alcohol who appears to be aged 25 or under will be asked for identification of age in the form of either a

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valid passport, photo driving licence, government issued identity card or PASS accredited card or its equivalent successor card and if none is supplied or that supplied is unacceptable a sale will be refused and a record kept of the refusal. Staff selling alcohol will be subject to refresher training every 3 months and records of training shall be kept. Records of refusals and training shall be made available to enforcement officers on request.'

3.3.3 Mr Dogan was also unable to produce an incident book for the premises. Condition 6 on the premises licence states

6. An incident book shall be kept on the premises and used to record any incidents of crime or disorder as soon as reasonably practicable. The entries should include the time, date and brief details of what has happened and those involved. The incident book shall be retained on the premises and made available to enforcement officers on request.

3.3.4 Mr Dogan was provided with a booklet produced by Wiltshire Police giving advice on how to comply with the Licensing Act 2003. This document is attached a part of the Police review papers.

A visit took place on 17th May 2016 at which time Mr Dogan produced all documents required above.

3.3.5 On 31st January 2017 Wiltshire Police Licensing Officer, PC Diffin attended the premises as a result of increased Anti-Social Behaviour in the area.

Part B of the Premises Licence was not on display and Mr Dogan produced it from under the counter. Mr Dogan was unable to produce a current incident book for the premises in breach of condition 6

Mr Dogan produced a form listing staff training but was unable to produce documents stating what training had been given. The document showed last staff training had taken place on 27/11/2015. This is in breach of condition 9 on the premises licence.

Mr Dogan was unable to produce a Challenge 25 policy or evidence of staff having been trained in the policy. This is in breach of conditions 10 and 11 on the premises licence.

A refusals book was produced by Mr Dogan with the last entry being 7/05/2016 showing the book was not being used by staff to record refusals from that date in breach of conditions 8 and 9.

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Police officers spoke with Mr Kabala via the telephone who stated he had nothing to do with the running of the premises and was only the Designated Premises Supervisor whilst waiting for Mr Dogan to get his personal licence. He confirmed that he had had no involvement with the premises for the past 12 months and that Mr Dogan was running the store.

- 3.4 The Panel is requested to consider the application for the review of the premises licence from the Wiltshire Police and supporting evidence, having regard to Swindon Borough Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- 3.5 Wiltshire Police have asked the premises licence at Brunel News, Unit 2D, 2 Havelock Square be revoked.

4. Alternative Options

- 4.1 It would be possible to defer the determination of the review application to a date within five working days of the day (or the last day) on which the hearing was held, or to defer the hearing itself to a specified date (or dates) where it is considered to be necessary for the authority's consideration of any representation or notice made by a party. However, either step should be seen as an exceptional measure.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are no direct financial implications arising from the report. Failure to reach a reasonable conclusion, based on the facts, could lead to crime and disorder, or to unwarranted damage to the business in question. Either scenario could raise issues of compensation. In the case of an appeal, the Council could become liable for costs.

Legal and Human Rights Implications

- 5.2 A declaration has been made by the Secretary of State that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.

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5.3 All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

This report relates to the requirements of licensing legislation.

5.4 Diversity Impact Assessment

It is not considered that the preparation of a DIA is required in respect of this report.

5.5 **Consultees**

The Director of Law and Democratic Services (Monitoring Officer) is consulted in respect of all reports.

5.6 **Background Papers**

Licensing Act, 2003

Secretary of State revised Section 182 Guidance

Swindon Borough Council's Statement of Licensing Policy, (2016)

5.7 **Appendices**

Appendix A - Application from Wiltshire Police for the review of a Premises Licence, (dated 4th February 2017), incorporating: Premises Licence, Brunel News (removed and redacted copy attached as Appendix B below); The Witness Statement of PC Diffin, (dated 4th February 2017); Wiltshire Police Licensee Information Booklet; Copy of Staff training records produced at Brunel News; Copy of Refusals Book produced at Brunel News.

Appendix B – Copy of extant Premises Licence, in respect of Brunel News, Unit D, 2 Havelock Square, Swindon, SN1 1LE dated 18th September 2013