

LICENSING SUB-COMMITTEE



Report subject	Review of Abracadabra, 3 High Street, Christchurch, BH23 1AB
Meeting date	31 January 2024
Status	Public Report
Executive summary	To consider an application by Dorset Police for a review of the premises licence as a result of the premises breaching their licence conditions, despite repeated attempts by Dorset Police and other Responsible Authorities to support and encourage compliance. Dorset Police no longer have confidence in the licence holder who is also the Designated Premises Supervisor (DPS)
Recommendations	<p>It is RECOMMENDED that:</p> <p>Members consider the following options: -</p> <ul style="list-style-type: none"> (a) Modify the conditions of the licence; and/or (b) Exclude a licensable activity from the scope of the licence; and/or (c) Remove the Designated Premises Supervisor; and/or (d) Suspend the licence for a period not exceeding three months; or (e) Revoke the licence; or (f) Leave the licence in its current state. <p>Members are asked to make a decision at the end of the hearing after all relevant parties have been given the opportunity to speak. Members must give full reasons for their decision.</p>
Reason for recommendations	<p>Where a review application by a responsible authority, or any other person, has been received the scheme of delegation set out in the Council's Constitution states that these applications should be dealt with by the Sub-Committee.</p> <p>The Licensing Authority may only consider aspects relevant to the application that have been raised in the application.</p>

Portfolio Holder(s):	Cllr Kieron Wilson – Portfolio Holder for Housing, and Regulatory Services.
Corporate Director	Jillian Kay – Corporate Director for Wellbeing
Report Authors	Tania Jardim – Licensing Officer
Wards	Christchurch Town;
Classification	For Decision

Background

1. An application for review of the premises licence, under Section 51 of the Licensing Act 2003, by Dorset Police was received on 7 December 2023. The application relates to the prevention of crime and disorder, public safety and the protection of children from harm licensing objectives. A copy of the review application is attached at Appendix 1.
2. The review has been sought following regular reports received by Dorset Police that the premises present a risk to some of the most vulnerable in the community. Despite several visits to the premises, by Dorset Police and their partners, in an attempt to engage the premises licence holder in understanding and complying with the conditions of their licence. The licence holder has continuously failed to comply with licence conditions and now appears to not want to engage with Dorset Police. Dorset Police no longer have confidence in the Premises Licence Holder who is also the Designated Premises Supervisor to uphold the licensing objectives.

Premises Licence History

3. The premises, previously known as Oxxo, was granted a premises licence in 16 September 2020.
4. The premises licence was transferred to Mr Yunis Mohammad on 30 May 2023, at the time, the premises were known as EE.
5. On 22 August 2023 a Full Variation application was submitted to extend the licensable and opening hours of the premises from 23:00 to 02:00 and to remove conditions relating to staff training and participation in Town Watch. This application went before the Licensing Sub-Committee who refused to extend the licensable hours and amended the conditions which are numbered 2.1 and 2.3. A copy of the current premises licence and conditions is attached at Appendix 2.
6. On reviewing our records, it has been noted that various reports have been received from members of the public and our partners relating to non-compliance of conditions included in the premises licence, the premises being used for staff accommodation, underage sales and complaints relating to anti-social behaviour occurring outside the premises. These reports resulted in multi-Agency visits taking place as follows: -
 - On a visit carried out on 8 August 2023, illegal/counterfeit vapes were seized by Trading Standards Officers and various breaches of the premises licence

conditions were observed which resulted in Dorset Police issuing a breach warning letter.

- Dorset Police carried out a follow up visit on the 25 October 2023 and further breaches were observed. A further breach warning letter was issued on the 26 October 2023. Copies of these letters are attached at Appendix 3.
- In addition, Dorset & Wiltshire Fire and Rescue visited the premises on the 26 October 2023 and we were advised that they had served an Article 31 Prohibition/Restriction Notice under the Fire Safety Order, on the Premises Licence Holder so not to allow sleeping within the store room / managers office as this was deemed an unsafe practise.
- A further multi-agency visit was carried out on the 29 November 2023, concerns had not been addressed and Dorset Police submitted this review.

Consultation

7. A copy of the review application was served on all responsible authorities and the licence holder on the 7th of December 2023.
8. The Licensing Officer attended the premises on the 8th of December 2024 and erected two site notices on the premises. Two further notices were placed in the main public noticeboards of the council offices in Bourne Avenue and St Stephen's Road. A notice was also published on the council's website.
9. Emails in support of the premises were received from other persons and copies are attached at Appendix 4.
10. Dorset & Wiltshire Fire and Rescue did not make representation, however, advised they are in the process of auditing the premises with a view to lift the restriction and that they have requested the premises licence holder provide them with a Fire Risk Assessment. It is not usual that this would be a condition on a premises licence as it is dealt with under separate legislation.

Options Appraisal

11. Before making a decision, Members are asked to consider the following matters: -
 - The representations made by Dorset Police.
 - The representation in objection to Dorset Police's application from two other persons.
 - The submissions made by or made on behalf of the applicant.
 - The relevant licensing objectives, namely the prevention of crime and disorder, public safety and the protection of children from harm.
 - The Licensing Act 2003, Regulations, Guidance and the Council's Statement of Licensing Policy.

Summary of financial implications

12. An appeal may be made against the decision of Members by the applicant or the holder of the premises licence to the Magistrates' Court which could have a financial impact on the Council.

Summary of legal implications

13. If Members decide on an option available to them which the applicant or licence holder does not agree to, they may appeal to the Magistrates' Court within a period of 21 days beginning with the day that they are notified, in writing, of the decision.

Summary of human resources implications

14. There are no human resources implications.

Summary of sustainability impact

15. There are no sustainability impact implications.

Summary of public health implications

16. There are no public health implications.

Summary of equality implications

17. There are no equality implications.

Summary of risk assessment

18. There are no risk assessment implications.

Background papers

BCP Council – Statement of Licensing Policy

<https://democracy.bcpCouncil.gov.uk/documents/s21122/Statement%20of%20Licensing%20Policy.pdf>

Hearing Regulations

<https://www.legislation.gov.uk/ukSI/2005/44/made>

Revised Guidance issued under Section 182 of the Licensing Act 2003 (December 2023)

https://assets.publishing.service.gov.uk/media/6579dec8095987000d95e063/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_-_December_2023.pdf

Appendices

- 1 – Copy Review Application.
- 2 – Copy Premises Licence.
- 3 – Copy correspondence from Dorset Police following visits.
- 4 – Copy emails in support of premises.