

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS) ADDENDUM 1

10.00AM, TUESDAY, 5 MARCH 2024

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ADDENDUM

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Licensing Panel (Licensing Act 2003 Functions)

Agenda Item
Brighton & Hove City Council

Subject:	To determine an application for summary review under SS53A – 53D of the Licensing Act 2003		
Premises:	Karen's Diner Unit 3B Boardwalk Level Waterfront Brighton Marina Brighton BN2 5WA		
Premises Licence Holder:	Karen's Diner Brighton Ltd		
Date of Meeting:	05 March 2024		
Report of:	Executive Director for Housing, Neighbourhoods & Communities		
Contact Officer:	Name:	Sarah Cornell	Tel: (01273) 295801
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Ward(s) affected:	Whitehawk & Marina		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 To determine a summary review application made by Sussex Police in regard to the premises licence issued for Karen's Diner Brighton Ltd.

2. RECOMMENDATIONS:

- 2.1 To determine a summary review application made by Sussex Police in regard to the premises licence issued for Karen's Diner Brighton Ltd.

3. CONTEXT/ BACKGROUND INFORMATION & CONSULTATION

- 3.1 On 7th February 2024 the licensing authority received a summary review application from Sussex Police, under S53A of the Licensing Act 2003, regarding Karen's Diner. The summary review application was accompanied by a certificate issued by a senior officer of the rank of Superintendent, who was of the opinion that the premises are associated with serious crime.
- 3.2 As per the requirements of S53A(2)(a) and 53B of the Licensing Act 2003, on 9th February 2024 the licensing authority considered whether it is necessary to take interim steps pending the determination of the review applied for. The licensing authority decision was to suspend the licence with immediate effect.
- 3.3 The grounds for the review are that Sussex Police are of the opinion that the premises are associated with serious crime. The review application relates to the following licensing objectives:

- Prevention of Crime and Disorder

Documents received

- 3.4** The current premises licence can be viewed at Appendix A
- 3.5** The review application and the certificate that accompanied the application can be viewed at Appendix B1 and B2. (As redacted).
- 3.6** The decision notice issued following the interim steps meeting that took place on 9th February 2024 can be viewed at Appendix C. (As redacted).

Representations received

- 3.7** Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. No additional representations were received:

- 3.7.1** A map detailing the location of the premises is attached at Appendix D.

COMMENTARY ON THE LICENSING ACT 2003 AND GUIDANCE ISSUED UNDER S182 OF THE ACT

- 3.8** At this hearing the licensing authority must:

- Consider the application made in accordance with Sections 53A-53D
- Consider any relevant representations
- Take such steps (if any) as are considered appropriate for the promotion of the Licensing objectives. These steps are:
 - o to modify the conditions of the licence
 - o to exclude a licensable activity
 - o to remove the designated premises supervisor from the licence
 - o to suspend the licence for a period not exceeding 3 months, or
 - o 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 of the review application and interim steps review must be made at the conclusion of the hearing.

- 3.9** In conducting the review under this section, the relevant licensing authority must also —

- (a) consider whether the interim steps are appropriate for the promotion of the licensing objectives;
- (b) consider any relevant representations; and
- (c) determine whether to withdraw or modify the interim steps taken.

The power of the relevant licensing authority on a review under this section includes a power to take any of the following interim steps—

- (a) the modification of the conditions of the premises licence;
- (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
- (c) the removal of the designated premises supervisor from the licence;
- (d) the suspension of the licence

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.

1.1.1 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

1.3.1 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.

3.3 The Matrix Approach

The Licensing Authority will support:

3.3.1 Diversity of premises: ensures that there is a mix of the different types of licensed premises and attracts a more diverse range of customers from different age groups, different communities and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This will have a positive effect in reducing people's fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time may create opportunities for violent crime and public disorder and therefore supports mixed use venues encouraging a wider age balance.

3.3.2 A "matrix" approach to licensing decisions has been adopted and is set out below. It provides a framework of what the licensing authority would like to see within its area and gives an indication of the likelihood of success or otherwise to investor and businesses making applications.

Matrix approach for licensing decisions in a Statement of Licensing Policy (times relates to licensable activities)

Matrix approach for licensing decisions in a Statement of Licensing Policy

	Cumulative Impact Area	Special Stress Area	Other Areas
Restaurant	Yes (midnight)	Yes (midnight)	Yes (midnight)
Café	Yes (10 pm)	Yes (10 pm)	Yes (10 pm)
Late Night Takeaways	No	Yes (midnight)	Yes (midnight)
Night Club	No	No	No
Pub	No	Yes (11pm)	Yes (midnight)
Non-alcohol lead (e.g. Theatre)	Yes (favourable)	Yes (favourable)	Yes (favourable)
Off-licence	No	No	Yes (Up to 11pm but if in densely residential area may be earlier – see note 7 below)
Members Club (club premises certificate)	Yes (<100 capacity) (11pm)	Yes (<100 capacity) (11pm)	Yes

Notes on matrix

Subject to the following notes, the policy, as represented in the matrix, will be strictly adhered to:

1. Each application will be considered on individual merit
2. Applications within the CIZ are subject to the special policy on cumulative impact at para 3.1, and those within the special stress area to the special stress policy considerations at para 3.2.
3. Departure from the matrix policy is expected only in exceptional circumstances
4. Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix.
5. Exceptional circumstances may include: consultation with and meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to offset impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary to business activity (demonstrable to responsible authorities and licensing authority, for instance by licence condition allowing authorised officers access to sales accounts).
6. The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community-based street parties, members clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre.

7. Other Areas; consideration will be given to the nature of the area and location in relation to any application. In a residential area for example the concerns of local residents will be relevant when considering applications for off-licences, pubs or cafes, especially if there is evidence of anti-social behaviour, street drinking or underage drinking. Earlier closing times may be appropriate. Regard will be had to the Public Health Framework for assessing alcohol licensing on our website www.brighton-hove.gov.uk/licensingact.
8. In an area where there are already several existing off-licences or where the premises is situated within a parade with another off licence and where representations are received about negative cumulative impact on the licensing objectives of a further premises, the application may be refused on these grounds or restrictions placed on the terminal hour to reflect opening hours of other shops.
9. Outdoor events will be supported where arranged through the council's event planning process. Generally, regulated entertainment in the open-air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The licensing authority will have regard to Noise Council guidance.
10. Non-alcohol led category does not include "alcohol in shared workplaces". It is recommended that sale of alcohol in shared workspaces should have a terminal hour of no later than 10pm. For further advice and guidance on "alcohol in shared workplaces" please see paragraph 3.3.4-3.3.6.

3.4 Night-time Economy Safeguarding Initiatives

The licensing authority continue to support safeguarding initiatives such as the Beach Patrol Quad bike, safe space and street pastors. The Community Safety Partnership Board continues to oversee the Community Safety Strategy and Safety in the Night-time Economy Action Plan as part of their remit. The action plan has been updated and recently the updated strategic assessment has been completed. In addition, the University of Sussex operates a "Good Night Owl" scheme which includes 40 volunteers and is currently funded by the Police Community Safety Fund. Licensed premises are being encouraged to use the "Ask 4 Angela" initiative.

3.4.1 Operation Marble (Sussex Police)

Due to the large concentration of licensed premises and night clubs in the centre of Brighton, a high proportion of the Division's violent crime and serious sexual offences are committed within a relatively small area. The Division receives a large influx of visitors to the city centre at weekends. Many of these people attend the pubs and night-clubs during night-time hours and as a result an enhanced policing operation is provided, called Op Marble. Traditionally this ran from 2100hrs through to 0400hrs on a Friday and Saturday night but since a review in 2017 has run from 20:00 to 06:00 between 1st May and 30th September. This was in response to pressures from the Night-time Economy as pubs and clubs remained open later and increases in crimes in the earlier hours of the morning. The emphasis of Op Marble is a highly visible presence of officers deployed on foot as well as focus on regularly updated hot spots to help reduce the risk of violent crimes.

In addition to the standard Friday and Saturday night, there are a number of standalone operations such as Bank Holidays, New Year's Eve, Halloween and Pride. In the run up

to Christmas, additional resources are at times deployed during the end of week to monitor Christmas Parties.

Op Marble covers an area between Preston Street to the West – The Level to the North – Kemptown to the East and the seafront between West Pier and Concorde 2 to the South. This covers the majority of the Cumulative Impact Zone defined in this policy at 3.1 and is regularly under review to ensure that limited Police resources are being used to their optimum.

3.4.2 Doorstaff Briefing

In association with BCRP – Business Crime Reduction Partnership – Police attend a weekly Friday night doorstaff briefing at Pryzm. Covered are persons of interest and share information on any events that might impact the city during that weekend – music events, football etc. Weekly meeting is held between Police and BCRP. The previous weekend is reviewed and plan for the weekend ahead and any future events. Premises of concern are also discussed.

3.4.3 Vulnerability training

Training delivered by Sussex Police to staff working within the night-time economy to provide them with knowledge of vulnerability and ensure they understand their responsibilities and duty of care to vulnerable people including actions that must be taken to reduce identified risk. Training will include:

Ask for Angela

An initiative for persons that are on dates and they are feeling uneasy and need a safe way of leaving. The individual can approach a member of bar staff and ask for Angela and the staff will know this person needs some help getting out of a situation

they don't feel safe or comfortable in. This could be calling them a taxi or a friend of family member to come and collect them.

Op Bobcat

How to identify a possible sexual predator within the night-time economy. What kind of behaviour to look out for. What to do when you feel someone could be out to cause sexual harm to other individuals.

4 Prevention of Crime and Disorder

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.

4.1.1 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.

4.1.2 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.

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

4.1.4 Measures put in place should support the intentions of Operation Marble (police operational order), which aims to prevent incidents of crime and disorder within the night-time economy, at weekends. Operation Marble operates with a view to minimising the risk to the public of being a victim of public place violent crime; to reduce incidents of violent crime and public disorder within the city centre; to deal positively with offences and offenders; to secure and preserve evidence which will assist in the prosecution of offenders and to support the night-time economy and the responsibly run businesses within it.

4.2 Sussex Police

4.2.1 Sussex Police have a specific Operation relating to the night-time economy called Operation Marble (detailed in 3.4.1) and work closely with partners to ensure a safe and vibrant city centre. There continues to be an increasing demand for resources further into the early hours of the morning with the highest concentration of crimes occurring between 21:00 and 06:00 on a Friday into a Saturday and between 20:00 and 06:00 on a Saturday night into a Sunday. The data set used shows that up to 80% of arrests made in the timeframe 20:00 – 06:00 on these days were affected by alcohol. For full details of these statistics see the Cumulative Impact Assessment at Appendix E.

4.2.2 The dealing and use of drugs remains an issue across the city and Sussex Police welcome proactive policies from licensed premises. A drug safe and seizure recording initiative is in place of which further details can be obtained by contacting Brighton & Hove Police Licensing (brighton.licensing@sussex.pnn.police.uk). This initiative encourages licensed premises with Door Supervisors to search and seize drugs from persons attempting to enter their premises and ensures that once drugs are removed from persons, they can be safely collected and destroyed by Sussex Police.

4.2.3 Dispersal from the city centre during the late evening and early morning remains a policing challenge. Over recent years, there has been a proliferation of off-licences and late-night refreshment venues along the city's arterial routes. This has led to incident 'hot spots' where patrons from the night-time economy continue to interact, albeit away from any safety measures afforded by on-licences. As such, Sussex Police support the Council's Special Policy in offering guidance to both applicants and the Licensing Committee in relation to off-licences and late-night refreshment

licences.

4.2.4 Sussex Police have continuing concerns that, despite staff training in age-restricted sales, underage individuals are still being served alcohol both on and off the premises in some of the city's licensed premises. As such, regular intelligence-led 'test-purchase' operations are conducted to highlight premises where sales are taking place and ensure appropriate enforcement action is taken to prevent further sales. The introduction of identification scanning machines at premises throughout the city has proved successful in mitigating some risk, but operators must maintain vigilance regarding the fraudulent use of genuine IDs. Sussex Police continue to work alongside the Business Crime Reduction Partnership to tackle the problem of those who use false or another's identification to enter licensed premises and purchase alcohol.

4.2.5 Sussex Police work closely with venues and other organisations within the city to protect vulnerable people from becoming victims of crime. As well as work to prevent underage sales, vulnerability training is offered to identify persons who may have been made vulnerable through alcohol or drugs. Sussex Police also support initiatives such as (but not limited to) safe spaces, mobile teams of volunteers actively checking people's well-being and the Beach Patrol.

4.2.6 Public Space Protection Orders have proved an effective tool for Sussex Police in targeting enforcement action in problem areas of the city. It 'allows Police Officers and Police Community Support Officers to remove alcohol from any person in a public place if that person is involved in anti-social behaviour (ASB) or the officer believes that by having alcohol in their possession there is an increased risk of ASB. It is an offence to refuse to hand over alcohol when required to do so.' They have been particularly effective in the daytime economy where members of the street community are causing ASB issues for members of the public and local businesses, especially during the summer months where there is a large influx of visitors to Brighton & Hove.

4.2.7 Policing the night-time economy continues to provide a challenge and in the climate of limited resources and newly emerging problems, Sussex Police support maintaining the council's Special Policy which defines cumulative impact and special stress and will continue to take enforcement action where appropriate if the actions of a Premises Licence Holder, Designated Premises Supervisor, Door Supervisors or Staff have fallen below the high standard expected across the city. Sussex Police also recognise and support businesses which are aware of their social responsibilities and as such, actively contribute towards keeping Brighton & Hove a safe and enjoyable city.

4.3 Care, control and supervision of premises

4.3.1 The Licensing authority supports the Business Crime Reduction Partnership and other approved schemes. Where appropriate, premises licence holders should be members of the BCRP for the deterrence to violent crime that such membership provides. The BCRP NightSafe radio scheme is normally expected as an operational requirement for city centre bars, clubs and pubs and is an example of

good practice in achieving the aim of reducing crime and disorder and improving public safety. Well managed pub-watch schemes provide information exchange between the premises licence holders and responsible authorities that reduce and deter violent crime and disorder. The council will support a responsible licensing scheme.

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.

4.3.4 This policy recognises the use of registered Door Supervisors All Door Supervisors will be licensed by the Security Industry Authority. Mobile security units and similar systems are in use by some premises operators as a means of providing security cover at very short notice at premises which may not normally require a permanent security presence. This policy endorses the use of units following such guidance and standards in appropriate circumstances.

4.3.5 The development of codes of practice and general operating standards for security companies is encouraged for local businesses; premises operators are urged to ensure that security services, when engaged, are provided by suitably qualified businesses operating to recognised standards and who should be working towards SIA accreditation.

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

5 Public Safety

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.

5.1.1 The permitted capacity is a limit on the number of persons who may be on the

premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the "permitted capacity" of those premises should be.

5.1.2 Normally in the city centre, pubs and clubs will be expected to operate using polycarbonate or toughened/shatterproof glass.

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 aiders.

5.1.4 Where appropriate, licence holders or their authorised representatives will submit event safety plans and operating manuals, attend Event Planning Teams or Safety Advisory Groups and similar meetings prior to large events and shall be part of Event Liaison Teams during such events. Due regard shall be had to relevant guidance and publications including, for example: HSE approved code of practice for events.

6 Prevention of Public Nuisance

The following details and measures are intended to address the need for the prevention of public nuisance which may be associated with licensed premises and certificated club premises:

6.1.1 In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, as a result of people entering or leaving the premises or from individuals or groups of customers gathered outside (e.g., in order to smoke).

6.1.2 Applications for new licences or for the extension in size of licensed premises should not normally be granted if the premises will use amplified or live music and operate within or abutting premises containing residential accommodation except that occupied by staff of the licensed premises. A condition may be imposed on new licences that entertainment noise shall be inaudible in any residence. Noise emanating from within licensed premises should not normally be audible outside.

6.1.3 Installation of sound limiting equipment and sound insulation may be required to

minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.

6.1.4 Generally, regulated entertainment in the open-air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The Licensing Authority will have regard to Noise Council guidance.

6.1.5 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.

6.1.6 Reasonable controls are available to all premises operators to minimise the impact of noise from customers outside. The council's Environmental Health Department has issued guidance on a number of steps that can be taken in this respect which are endorsed by this policy (see 6.2 below).

6.2 Smoking Advice

6.2.1 Premises licence holders will be expected to:

Develop a management plan on how to manage smoking on their premises and ensure that all staff are aware of the contents of this plan, and that it is effectively implemented. Noise from people smoking and talking can be intermittent, vary in character and volume and be intrusive. An effective smoking management plan will help prevent neighbours being disturbed.

- Comply with any planning conditions restricting the use of outdoor areas.
- Ensure that any structures used by smokers comply with the design criteria detailed in the Heath Act 2006 and that any structures, awnings, retractable canopies, etc have the relevant planning permission.
- Ensure any new lighting to outdoor areas must be designed so as not to cause a light nuisance to neighbours and again have the relevant planning permission and building control consent.
- Ensure that the conditions on the premises licence are complied with. There may be conditions restricting the hours of use of gardens and outdoor areas. Having reviewed the contents of the premises licence it may be necessary to request a variation of your licence.
- Licence tables and chairs on the Public Highway under the provisions of the Highways Act 1980. These licences may have conditions restricting the times that the area can be used.
- Ensure drinks, glasses and bottles are not taken onto the highway unless there is a tables and chairs licence permitting use. A system should be adopted to prevent theft and 'spiking' of drinks, and reminding customers not to leave unattended items.
- Discourage smokers remaining in gardens and outdoor areas and determine terminal hours.
- Discourage smokers remaining outside by removing/disabling tables and chairs or prohibiting their use after a certain time. Lights and heaters will also be turned off.
- Introduce a system that after a certain time the number of smokers outside are restricted to a maximum number. Staff will be needed to manage this restriction.

- Employ staff and/or SIA registered door supervisors to manage doors and control customers and smokers entering and leaving the premises. Staff positioned on the doors can help to encourage customers not to cause a noise problem. It may be that staff are required to manage doors after a certain time, particularly during the hours when neighbouring residents are trying to sleep.
- Ensure door supervisors maintain order outside venues and protect customer safety. BCRP supports the use of Night Safe. Radio net and other pager systems and pub watch schemes can be used to provide for rapid police response and alert other venues where customers and staff are endangered.
- Position signs to remind customers that the premises is in an area where people live. It is not always obvious in busy commercial streets with flats above. By changing the design and wording of signs customers do not forget. Signs can be located in and outside the premises and on tables.
- Use CCTV to manage outside areas.

6.2.2 Licensed premises should normally display prominent, legible signs at exits reminding customers to leave in a quiet, peaceful, orderly manner.

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.

8.3 This policy supports the aims of the tourism strategy, recognising the benefits for the tourism economy of creating a safer and more attractive city centre and improving competitiveness with other European cities. The Licensing Committee should receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area to ensure that it considers these matters.

8.4 The Licensing Committee should receive relevant information relating to the employment situation of the area and the need for new investment and employment where appropriate.

8.5 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include the use of closed circuit television cameras, use of the NightSafe radio system or accredited scheme, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening. Certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements listed above.

8.6 The licensing authority will have regard to the need to disperse people quickly and safely from the city centre to avoid concentrations which may produce disorder and disturbance.

8.2 Other regulatory regimes

8.2.1 This policy avoids duplication with other regulatory regimes wherever possible. The following notes are made with regard to specific regimes:

Health and Safety: Certain premises will be the subject of health and safety enforcement by the local authority or the Health and Safety Executive (HSE). If other existing law already places certain statutory responsibilities on an employer or operator of premises, for example the Management of Health and Safety at Work Regulations 1999, it will not be necessary to impose the same or similar duties on the premises licence holder or club. However, existing duties will not always adequately cover specific issues that arise on the premises in connection with, for example, certain types of entertainment, and where additional and supplementary measures are necessary to promote the licensing objectives, necessary, proportionate conditions will need to be attached to a licence.

Fire Safety: Premises and their operators will be regulated by general duties under current fire safety regimes and the Regulatory Reform (Fire Safety) Order 2005 rather than licensing provisions.

Noise: Statutory and public nuisances are dealt with by the local authority's Environmental Health department under the Environmental Protection Act 1990, Noise Act 1996 and associated legislation. Noise from commercial premises may often fall under review powers set out in licensing provisions and closure powers in anti-social behaviour provisions.

Equality Act 2010: The Public Sector Equality Duty obliges public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between persons who share protected characteristics and persons who do not share it. The local authority's equality and inclusion policy produced under these obligations shall include reference to this statement of licensing policy.

Community relations: Integration of corporate strategies with licensing policy will include the Inclusive Council Policy which recognises the council's role, as a

community leader, to promote community cohesion and good relations between diverse communities. Measures to address prevention of crime and disorder recognise the need to improve well being and safety of all the communities in the city. Licensing policy supports the Crime and Disorder Reduction Partnership's crime reduction strategy. In particular it seeks to confront and reduce racist, homophobic, transphobic and religiously motivated crimes, incidents and anti-social behaviour.

Anti-Social Behaviour, Crime and Policing Act 2014: Contains powers to close premises that are causing nuisance or disorder. These powers can be exercised by the council or Police and they replace the closure powers in the Licensing Act 2003. The Act also contains powers to issue Community Protection Notices in respect of persons or businesses committing anti-social behaviour which is spoiling a community's quality of life.

Litter and Smoking: Cityclean contractors have Clean Neighbourhoods powers to enforce premises operators' responsibilities to keep frontages clear of litter.

Gambling Act 2005: In relation to casinos and bingo clubs, the principal purpose is gaming. The sale of alcohol and the provision of entertainment in such premises is incidental to gaming and in determining whether to permit entertainment that constitutes regulated entertainment under the act, gaming license committees and / or the Gambling Commission will have taken into account relevant government guidance. Accordingly it is felt that the licensing objectives will have been, or will be in the main, adequately considered by such committees and duplication of conditions should be avoided when considering applications under the 2003 Act where relevant representations have been made.

8.3 Enforcement

8.3.1 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.

8.3.2 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
- Drugs and alcohol strategies – local alcohol harm reduction strategy
- Objectives of the 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

9.1.1 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.

9.1.2 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: 27/02/24

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: 27/02/24

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 – The review application and the certificate that accompanied the application can be viewed at Appendix B1 and Appendix B2. (As redacted).

Appendix C - The decision notice issued following the interim steps meeting that took place on 9th February can be viewed at Appendix C. (As redacted).

Appendix D – Map of Premises

Documents in Members' Rooms

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2021.

Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003, December 2023.

Public Health Framework for Assessing Alcohol Licensing – January 2022.

Background Documents

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2021.



Brighton & Hove City Council

Appendix A Schedule 12 Part A

Regulation 33, 34

Premises Licence Brighton and Hove City Council

Premises Licence Number

1445/3/2023/02830/LAPREN

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Karen's Diner
Unit 3B
Boardwalk Level
Waterfront
Brighton Marina
Brighton
BN2 5WA

Telephone number

Licensable activities authorised by the licence

Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities

Sale by Retail of Alcohol

Every Day 12:00 - 22:00 On the premises

The opening hours of the premises

Everyday 12:00 - 22:30



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Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption on the Premises.

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Karens Diner Brighton Ltd
254 Upper Shoreham Road
Shoreham-By-Sea
BN43 6BF

Registered number of holder, for example company number, charity number (where applicable)

Registered Business Number 14899068

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Thomas Rooney
REDACTED

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

REDACTED



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Annex 1 – Mandatory conditions

S 19; mandatory conditions where licence authorises supply of alcohol

1. No supply of alcohol may be made under the premises licence
 - a) at a time when there is no designated premises supervisor in respect of the premises, or
 - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence
3. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to–
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.



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- (e) dispensing directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
(a) a holographic mark, or
(b) an ultraviolet feature.
6. The responsible person must ensure that—
(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
(i) beer or cider: ½ pint;
(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
(iii) still wine in a glass: 125 ml;
(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1 —



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(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979:

(b) “permitted price” is the price found by applying the formula—

$$P=D+(D \times V)$$

where—

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.



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Annex 2 – Conditions consistent with the Operating Schedule

General:

1. All staff will receive training in the Licencing Act 2003 and the Licencing objectives.
2. No staff will work at the premises until this training has been completed and the required refreshment training have been completed.
3. Refresher training should take place once a year.
4. All staff Licencing Act 2003 and Licencing Objective training will be documented and sign by both the trainer and trainee.
5. No staff to work at the premises until this training has been completed. Training records to be made available to any of the responsible authorities on request.
6. Authorised civilian staff employed by Sussex Police in the role of licensing officer shall have the right of access to the licensed premises during hours of operation for the purpose of inspection of the premises and premises records in order to ensure the promotion of the licensing objectives.
7. Alcohol will be served by waiter/waitress service to persons seated at tables and ancillary to a main table meal only.
8. There shall be no vertical drinking at the premises.

The Prevention of Crime and Disorder:

9. Subject to GDPR guidance and legislation:
 - a) Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrances/exits to the premises as well as any outside space. The system shall be on and recording at all times the premises licence is in operation.
 - b) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.



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- c) CCTV footage will be stored for a minimum of 31 days.
 - d) The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
 - e) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
 - f) The management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Police e.g. USB) or provide footage via an online link as initiated by Police, without difficulty or delay and without charge.
 - g) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable - brighton.licensing@sussex.police.uk.
 - h) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.
10. An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises and any refusals of alcohol. The incident log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week. The logbook should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence. Any refusals made at any of the bars/point of alcohol service e.g., for intoxication, will also be recorded in writing.

Public Safety:

11. Staff will be trained to be alert to any potential danger to customers and react accordingly. If they are unable to quickly defuse the situation without risk to customer or staff, then they are instructed to call the police. All relevant fire procedures and risk assessments are in place for a premise of this size.

The Prevention of Public Nuisance:



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12. Patrons attending the premises will be reminded of their responsibilities to leave the premises quietly.
13. A smoking policy will be available on site for inspection as required.
14. No more than 5 patrons from the premises will be permitted to smoke in the smoking area at any one time.
15. Cigarette bins will be provided to encourage smokers to dispose of their cigarettes in a safe manner.
16. The smoking area will be cleaned every evening at the close of trade.
17. Signage relating to Taxi services available, including phone numbers, will be displayed at the entrance to the premises.

The Protection of Children from Harm:

18. a) The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive induction training. This training will take place prior to the selling of such products:
 - The lawful selling of age restricted products
 - Refusing the sale of alcohol to a person who is drunk
 - b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 8 weeks, with the date and time of the verbal reinforcement/refresher training documented.
 - c) All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.
19. The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, driving licenses with a photograph or proof of age cards bearing the 'PASS' mark hologram. The list of approved forms of ID may be amended or revised with the prior written agreement of Sussex Police and the Licensing Authority without the need to amend the licence or conditions attaching to it.
 20. Signage advertising the "Challenge 25" policy will be displayed in prominent locations inside the premise.

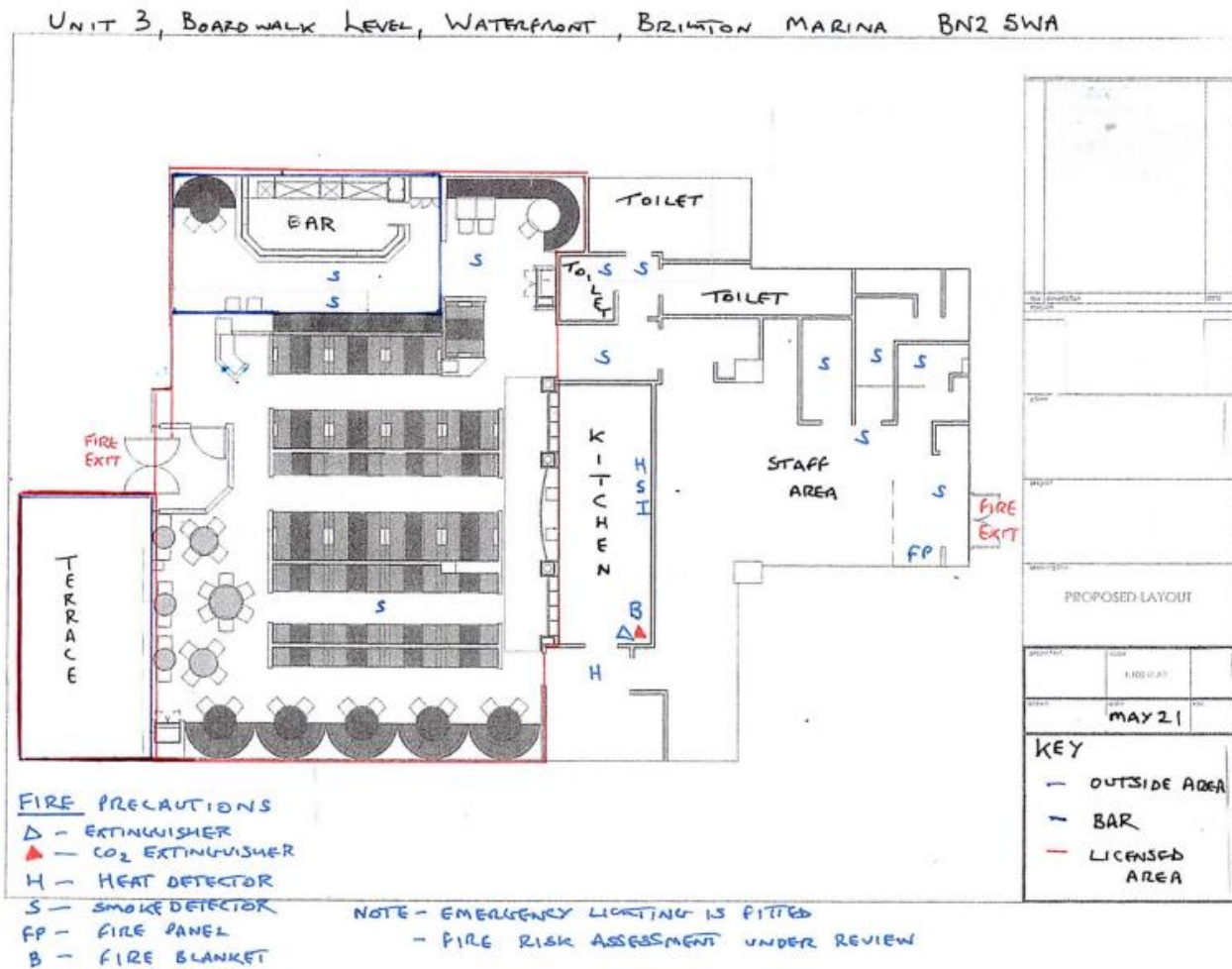


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21. The premises will always follow the Karen's Childrens Policy.

Annex 3 – Conditions attached after a hearing by the licensing authority:- N/A

Annex 4 – Plans





**Brighton & Hove
City Council**

Statutory Form For Applying For A Summary Licence Review Annex B

Brighton and Hove City Council, Bartholomew House, Bartholomew Square,
Brighton, East Sussex, BN1 1JE

**Application for the review of a premises licence under section 53A of the
Licensing Act 2003 (premises associated with serious crime or disorder)**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. **Use additional sheets if necessary.**

I, **Superintendent Petra LAZAR** [on behalf of] the chief officer of police for the **Sussex** police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Karen's Diner
3B The Boardwalk
Brighton Marina**

Post town: **Brighton**

Post code (if known): **BN2 5WA**

2. Premises licence details:

Name of premises licence holder (if known): **Karen's Diner Brighton Ltd**

Number of premises licence holder (if known): **14899068**

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

An expedited review is sought by Sussex Police [REDACTED]

[REDACTED] has been a news article online by The Argus that shows a video from inside Karen's Diner where an unknown employee has placed a paper hat on a minor's head with "I should have been a blow job" written on it. This has prompted Sussex Police Licensing to conduct a full inspection of the premises to ensure compliance to their licence conditions, which showed high number of breaches one of which being CCTV that we believe has recently been removed.

We also conducted drug swabbing which returned high results in the toilets including on a baby changing table. We have also been informed by staff that the Designated Premises Supervisor, Thomas ROONEY is not there on a regular basis to have day to day control over the premises and ensuring the licence conditions are being adhered to. All the above amounts to serious concerns over the how the venue is being run by the current management and the risk to both staff and members of the public working and attending the premises.

Therefore, Sussex Police have taken the unusual, but appropriate, step of submitting an application for a 53a Expedited Review due to following concerns which are detailed below:

- [REDACTED]
- Drugs
- Breaches of the licence conditions including CCTV

.....

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] CARTER was asked about CCTV within the premises. He stated that he never really knew about the CCTV. That he took the site over from Frankie & Bennies with a lot of the fixtures. He believed the CCTV was in the roof of the site and never really looked.

This has since been looked in to by Police Licensing during an inspection and the location of the CCTV hard drive is empty with just the cables and TV screen present. A different Manager at the venue stated to Police Licensing that the CCTV hard drive was present a few days before and that he is unsure who has removed it.

[REDACTED]

Drug Results

02nd February 2024 PS LAM attended the premises and conducted drug swabbing.

GE Security, the Ion Track Itemiser manufacturer give the following guidance in their Technology Statement about interpreting swab results:

Readings of between 1 and 2 times the alarm threshold can be classed as a “low” response. It could be attributed to cross contamination of the surface tested, background contamination, or greatly degraded historic contamination. It is not indicative of recent direct contact.

Alarms of between 2 and 3 times the alarm threshold can be classed as a “medium” response. It could be attributed to cross contamination of the surface tested or recent historic contamination that may have been left a number of days prior to the sample being taken.

Alarms of between 3 and 4 times the alarm threshold can be classed as a “high” response. This level of response would not be attributed to cross contamination and is indicative of recent and direct contact with measurable quantities of the narcotic identified by the machine.

Readings of 4.00 and above are estimated to relate to microgram amounts of contamination being transferred to the sample media. **This level of contamination is not generally experienced in any other environment than somewhere that has been in direct contact with a bulk amount of the source narcotic**, i.e., this level is not generally experienced as background contamination or through incidental cross contamination by being in close contact with other contaminated areas or persons.

The results of the readings are as follows:

Reception desk – Cocaine 1.68
Bar front - Nil
Back bar - Nil
Bar tablet/ipad - Nil
Bar card machine – Cocaine 1.29
Kitchen serving counter – Heroin 1.85
Customer table – Cocaine 1.36
Male toilet hand dryer – Cocaine 3.48
Male toilet cistern – Cocaine 7.33
Male toilet toilet roll holder – Cocaine 5.48
Male toilet toilet seat – Cocaine 1.53
Ladies toilet hand dryer – Heroin 1.66
Ladies toilet toilet bin – Heroin 2.54, MDMA 2.29
Ladies toilet shelf - Nil
Ladies toilet 1 toilet roll holder – Cocaine 4.12
Ladies toilet 1 cistern – Cocaine 3.91, Ketamine 1.66
Ladies toilet 1 toilet seat - Nil
Ladies toilet 1 toilet roll holder – Cocaine 3.99
Ladies toilet 2 toilet roll holder – Cocaine 2.39
Ladies toilet 2 cistern – Cocaine 3.09
Ladies toilet 2 toilet seat – Cocaine 3.05
Ladies toilet 3 cistern – Cocaine 6.88
Ladies toilet 3 toilet seat – Cocaine 4.90
Disabled toilet toilet roll holder – Cocaine 6.46
Disabled toilet bin – Cocaine 4.49
Disabled toilet baby changer – Cocaine 5.41

Disabled toilet hand dryer – Cocaine 6.78

Disabled toilet cistern – Cocaine 3.42

Disabled toilet seat – Cocaine 4.49

As you will see from above there are some very high readings and most alarmingly a reading of 5.41 for cocaine on the baby changing table. During changing the baby's fingers could contact the surface where drugs have been consumed then place their fingers in their mouth causing possible harm.

Breaches of the licence conditions including CCTV

02nd February 2024 PS LAM attended the premises and conducted a full licensing inspection. The Designated Premises Supervisor was not present, so the check was conducted with the duty manager Ben. The following breaches were found:

Annex 2 – Conditions consistent with the Operating Schedule

General:

1. All staff will receive training in the Licencing Act 2003 and the Licencing objectives.

Unable to evidence this had been conducted.

2. No staff will work at the premises until this training has been completed and the required refreshment training have been completed.

Unable to evidence this had been conducted.

3. All staff Licencing Act 2003 and Licencing Objective training will be documented and sign by both the trainer and trainee.

Unable to evidence this had been conducted.

4. No staff to work at the premises until this training has been completed. Training records to be made available to any of the responsible authorities on request.

Unable to evidence this had been conducted.

The Prevention of Crime and Disorder:

9. Subject to GDPR guidance and legislation:

- a) Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises

internally and externally to cover all public areas, including the entrances/exits to the premises as well as any outside space. The system shall be on and recording at all times the premises licence is in operation.

- b) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
- c) CCTV footage will be stored for a minimum of 31 days.
- d) The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
- e) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
- f) The management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Police e.g. USB) or provide footage via an online link as initiated by Police, without difficulty or delay and without charge.
- g) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable - brighton.licensing@sussex.police.uk.
- h) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

The CCTV at the premises has been removed.

10. An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises and any refusals of alcohol. The incident log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week. The logbook should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence. Any refusals made at any of the bars/point of alcohol service e.g., for intoxication, will also be recorded in writing.

No such log at the premises.

Public Safety:

11. Staff will be trained to be alert to any potential danger to customers and react accordingly. If they are unable to quickly defuse the situation without risk to customer or staff, then they are instructed to call the police. All relevant fire procedures and risk assessments are in place for a premise of this size.

Unable to produce any such risk assessments or training records.

The Prevention of Public Nuisance:

12. Patrons attending the premises will be reminded of their responsibilities to leave the premises quietly.

No notice by the door or evidence customers are asked to leave quietly.

13. A smoking policy will be available on site for inspection as required.

Unable to produce a smoking policy.

15. Cigarette bins will be provided to encourage smokers to dispose of their cigarettes in a safe manner.

No bins seen.

17. Signage relating to Taxi services available, including phone numbers, will be displayed at the entrance to the premises.

No signage at the premises.

The Protection of Children from Harm:

18.

a) The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive induction training. This training will take place prior to the selling of such products:

- The lawful selling of age restricted products
- Refusing the sale of alcohol to a person who is drunk

b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 8 weeks, with the date and time of the verbal reinforcement/refresher training documented.

c) All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.

No initial or refresher training logs on site. There was one relating just to Challenge 25 but was last signed on 30th August 2023.

20. Signage advertising the "Challenge 25" policy will be displayed in prominent locations inside the premise.

Insufficient signed on display.

21. The premises will always follow the Karen's Childrens Policy.

Following video footage in The Argus we do not believe the policy is being followed although we acknowledge that the member of staff in the video has since been dismissed.

CCTV Breach

[REDACTED]

Police Licensing officer PC BERNASCONE attended the premises on 03rd February 2024 and spoke with the duty manager [REDACTED]. When asked about the CCTV, [REDACTED] took the officer to the rear of the building and pulled down a loft ladder. It appears the CCTV is kept within a ceiling void. It was too precarious to get into the loft area and potentially dangerous. [REDACTED] was able to get up there and took a photo on his phone showing the location of the CCTV however the unit was not there, only the cables and screen to view footage was present. [REDACTED] advised the box had disappeared a few days ago and he had no idea where it was and who had removed it.

On 04th February 2024 Lee CARTER contacted Sussex Police Licensing following our inspection. He was asked about the CCTV by PC BERNASCONE to which he advised that the CCTV was inherited from the previous owners of the building and that he had no idea where the CCTV system was stored.

On considering alternative enforcement action and interim steps, it is felt there is no further conditions that could be added to the licence that would be able to manage the risks and especially when the current conditions are not being adhered to. [REDACTED]

[REDACTED] Under the current legislation it is not possible to remove a Premises Licence Holder from the licence and so revocation of the licence is the only option to achieve this outcome.

The removal of the current designated premises supervisor (DPS) would be a positive step to take however this would not address all the concerns we have as some of these would be out of the control of any designated premises supervisor. The issues appear to be largely linked to the Premises Licence Holder who would appoint the future DPS in any case.

Sussex Police contend that a suspension of the Premises Licence is both necessary and proportionate and request that the Licensing Committee seriously consider taking this course of action as an interim step. Sussex Police will make submissions to request the

revocation of the premises licence at the full hearing and reserve the right to serve additional details in due course.

Signature of applicant: [REDACTED]

Date: 07th February 2024 [REDACTED]

Capacity: Superintendent Petra LAZAR [REDACTED]

Contact details for matters concerning this application:

A/Insp Mark REDBOURN
Operations & Licensing Inspector
[REDACTED]

Brighton & Hove Police Licensing Team
Police Station
John Street
Brighton
East Sussex
BN2 0LA
01273 404535 ext. 550826
brighton.licensing@sussex.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both. Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000.

In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably

be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

07 FEB 2024

Sussex Police
Licensing
John Street
Brighton
East Sussex
BN2 0LA

CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with serious crime¹.

Premises²:

Karen's Diner
Unit 3B Boardwalk Level
Waterfront
Brighton Marina
East Sussex
BN2 5WA

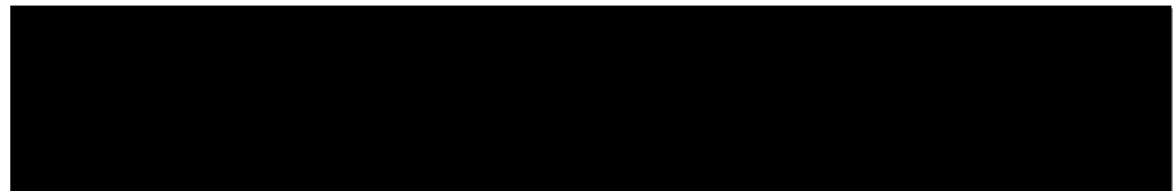
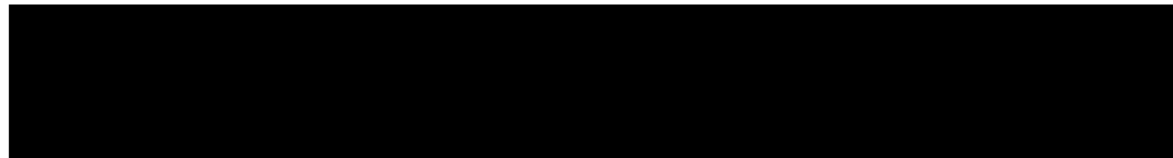
Premises licence number: 1445/3/2023/02830/LAPREN

Name of premises supervisor: Thomas ROONEY

I am a Superintendent³ in the Sussex Police Force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because⁴:

Immediate action is required to prevent further serious crime and incidents where harm or injury may be caused to the public.



¹ Delete as applicable.

² Include business name and address and any other relevant identifying details.

³ Insert rank of officer giving the certificate, which must be superintendent or above.

⁴ Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.

Additionally, we have concerns over how the premises is being run under the current management. This includes both the Premises Licence Holder and the Designated Premises Supervisor separately. This is due to:

- Police Licensing inspection on 02nd February 2024 found breaches of many of the licence conditions set out within Annex 2 with possible removal of the CCTV by the current management being very concerning.
- Police conducted drug swabbing of the premises with high readings for Cocaine found in the men's, ladies and accessible toilets. There was also a high reading on the baby changer, an area where a baby could touch with their hands while being changed and then put in their mouth.
- Inappropriate actions taken by a staff member towards a minor by placing a paper hat on their head with handwritten sexual connotations on it.
- We have been advised that the designated premises supervisor is not in day to day control of the premises.

[REDACTED] as well as the above licensing and drug concerns are described in detail within the Summary Licence Review documentation that accompanies this certificate and show there are systemic issues related to Karen's Diner and its management. We believe there is the potential for further serious crime to occur and only the interim steps taken within an expedited review will ensure immediate action is taken to ensure the safety of the public and the promotion of the Licensing Objectives. It is worth highlighting that the premises has only been trading under the premises licence since 19th August 2023.

On considering alternative enforcement action, it is felt there is no further conditions that could be added to the licence that would be able to manage the risks and especially when current conditions are not being adhered to. [REDACTED]

[REDACTED] Under the current legislation it is not possible to remove a Premises Licence Holder from the licence and so revocation of the licence is the only option to achieve this outcome.

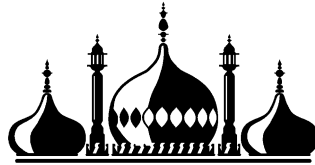
The removal of the current designated premises supervisor (DPS) would be a positive step to take however this would not address all the concerns we have as some of these would be out of the control of any designated premises supervisor. The issues appear to be largely linked to the Premises Licence Holder who would appoint the future DPS in any case.

Sussex Police contend that a suspension of the Premises Licence is both necessary and proportionate and request that the Licensing Committee seriously consider taking this course of action as an interim step. Sussex Police will make submissions to request the revocation of the premises licence at the full hearing and reserve the right to serve additional details in due course.

(Signed) [REDACTED]

(Date) 9/2/24

Appendix C



NOTICE OF INTERIM

STEPS PENDING REVIEW

Brighton & Hove

TO: The Licence holder

of Karen's Diner

TO: The Chief Officer of Police

RE: Sections 53A and 53B Licensing Act 2003 – Summary reviews; consideration of interim steps. Decision of the Licensing Panel at the meeting convened on Friday 9th February 2024 at 10.00am. Premises known as Karen's Diner, 3B The Boardwalk, Brighton Marina, Brighton BN2 5WA.

The panel considered the certificate and application for summary review by the Police. The panel has consulted the Police and questioned them about the circumstances which have led to the application for summary review of this premises licence. The premises licence holder was not present at the meeting.

The panel has decided to take the interim step of suspending the premises licence pending the determination of the full review proceedings. This suspension has immediate effect.

Reasons:

The panel has considered all the interim steps available to it. It must focus on the immediate measures that are necessary to prevent further serious crime occurring. In the circumstances the panel agreed with the police and considered that suspension of the licence was the only effective solution to promote the licensing objectives particularly that of public safety, protection of children from harm, and prevention of crime and disorder and to prevent the occurrence of further serious incidents.

REDACTED. There was also a report of inappropriate actions towards a minor. The panel also has taken into consideration the strong evidence of drug use at the premises following drug swabbing on the 2nd February 2024, and the serious breaches of the conditions on the licence notably CCTV, and no evidence of any training as required. The Certificate and police application detail the incident, the drugs readings and breaches of conditions. The police have serious concerns about how the premises is being run under the current management and believe there is potential for further incidents if swift action is not taken. They have no confidence in the management of the premises. The panel is very concerned about the evidence and accounts presented to it, which it takes very seriously. It shares the police concerns about the management of the premises and their ability to uphold the licensing objectives and keep their customers, staff and public safe. The persistent absence of the DPS is of concern as they should be in day to control and ensuring licensing conditions are being met. However, removal of the DPS, though considered by the panel, is not by itself adequate to ensure public safety. The widespread breach of conditions; most significantly the apparent wilful and deliberate removal of the CCTV is of huge concern as is the lack of training. There appears to be a culture of disregard for conditions which makes imposition of any further conditions ineffective as they are not likely to be adhered to. Further, despite the intervention made by police, and complaints from restaurant users, there is still apparently inappropriate content in social media that the premises control which shows no reflection on the welfare of minors and children on the premises. We acknowledge that the character of the business has an element of rudeness but consider that lines have been crossed with regard to what is appropriate to the welfare of children. Taking into consideration all of the above, the panel considers that suspension of the licence pending the full review hearing is necessary in the interests of public safety, safeguarding, and to prevent further crime and disorder occurring at the premises.

This decision takes effect immediately. The premises licence holder may make representations against this decision. Such representations should be addressed to the Head of Safer Communities, Bartholomew House,

Bartholomew Square, Brighton, BN1 1JP. Email: EHL.Licensing@brighton-hove.gov.uk

REDACTED R L Sidell Legal adviser to the Panel for Head of Law
Dated 9th February 2024

Appendix D



East Sussex Fire & Rescue Service
West Fire Safety Office
Hove Community Fire Station
English Close
Hove
BN3 7EE

Tel: 01323 462 130

Switchboard: 0303 999 1000

E-mail: West.firesafety@esfrs.org

Web: www.esfrs.org

By email:

Brighton.licensing@sussex.police.uk

In the case of emergency please dial 999

26 February 2024

please ask for

██████████

our ref

██████████

Dear Sir

Section 53A-C Licensing Act 2003 - Review - Karen's Diner, Unit 3B Boardwalk Level, Waterfront, Brighton Marina, Brighton, BN2 5WA

On the grounds of Public Safety, ESFRS wish to submit a supporting statement regards the above premises license.

Following an inspection in December 2023 due to a fire safety complaint an informal notice was issued identifying 14 areas of non-compliance. During a follow up inspection in February little effort has been made to address these areas to achieve compliance with the Regulatory Reform (Fire safety) Order 2005 or the Licensing Conditions relating to Public Safety as the majority are still outstanding.

The areas of concern are:

- Failure to implement the significant findings of the fire risk assessment to address fire related risks to which relevant persons are to comply with published guidance.
- Inadequate fire detection and warning system installed in the premises.
- Inadequate maintenance of existing fire detection and warning system, emergency lighting, fire-fighting equipment, kitchen suppression system, kitchen extractor system and maintaining the means of escape readily available whilst occupied.
- Remedial works identified in the previous Electrical Installation Certificate Report (EICR) have not been actioned.
- Inadequate fire safety policy in place.
- Inadequate co-operation and co-ordination with the RP of Malmaison Hotel.

Therefore, we would ask the licensing sub-committee to consider revoking the licence as a result of the on-going non-compliance with the conditions in the licence and the Regulatory Reform (Fire Safety) Order 2005. This non-compliance is placing the public at risk on a daily basis.

Supporting Information:

04/12/23 – Fire safety complaint received regards inadequate fire safety arrangements, failed electrical tests and concerns management were ignoring requests to address.

05/12/23 – Fire Safety Inspecting Officer attended the site. 14 areas of non-compliance identified and discussed with the kitchen manager Paul Roberts. These included:

- The significant findings from the FRA have not been implemented within the timescales given.
- Several fire doors in the premises do not meet the required FD30s standard and are not being maintained – self-closers missing, strips and seals missing, panels removed from cupboard door structure.
- Inadequate fire alarm system – manual call points missing from each final exit, fire alarm panel in an inaccessible and unreadable location, no zone plan provided.
- Fire alarm system not being tested or maintained as per the British Standard
- Emergency Lighting not being tested or maintained as per the British Standard
- Inadequate type and number of fire extinguishers present as identified in the Fire Risk Assessment
- Fire-fighting equipment not being maintained. Last test date was 26.06.22 (should be annual)
- The Ansul fire suppression system not being tested or maintained.
- Means of escape not being adequately maintained. Obstructions not being managed and therefore the routes are not being kept clear at all times.
- No evacuation plan.
- No fire safety policy written.
- Inadequate co-operation and co-ordination with Malmaison Hotel. FRA significant findings and evacuation plans not being shared.
- No records of servicing and maintenance of the HVAC system
- No current satisfactory EICR, remedial works had not been undertaken.
- No evidence of maintenance of the kitchen extractor system.

07/12/23 - An informal notice was issued detailing each failure, the required remedy and the required due date for each.

09/02/24 – Follow up visit carried out to check progress against the 14 identified failures. Only 3/14 have been addressed. 4 are now overdue:

5 failures with a due date of 7th Jan 2024:

- **EICR** – provided evidence a new EICR has been carried out and provided the quote for the remedial works but has not confirmed this work has been booked and is yet to be complete - **overdue**

- **Fire Safety Policy** – no progress - **overdue**
- **Fire Alarm testing** – stated this has been completed, asked to send test certificate. Not received as of 25.02.24 so unable to confirm - **overdue**
- **Means of escape** – no action regards ongoing management of the escape routes, obstructions observed and asked to clear again during visit - **overdue**
- **Evacuation Plan** – Been updated and a copy placed on the wall – **complete**

9 failures with due date 7th March (so not yet overdue):

- **HVAC servicing** – quotes obtained but no servicing date booked.
- **Kitchen Extraction System servicing** – quotes obtained but no servicing date booked.
- **Emergency lighting testing** – has been tested, asked to supply record of testing but not yet received so unable to confirm.
- **Fire fighting equipment** – new annual test undertaken, test label updated.
- **Fire suppression system servicing** – no action
- **Co-operation & Co-ordination with Malmaison Hotel** – no action
- **Fire doors** – no action
- **Upgrading the fire alarm to include manual call points, a zone plan and relocated panel** – no action.
- **Adequate number & type of fire extinguishers** – ordered.

Yours faithfully



**FIRE SAFETY INSPECTOR
WEST FIRE SAFETY TEAM MANAGER**

