

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 27

Brighton & Hove City Council

Subject:	Premises Licence applications for shared workplaces		
Date of Meeting:	Licensing Committee 14th March 2019		
Report of:	Director of Neighbourhoods, Communities and Housing		
Contact Officer:	Name:	Mark Savage-Brookes Licensing Officer	Tel: 01273 292100
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 Following a rise in applications being received by Brighton & Hove City Council for Premises Licences to be issued to companies who either operate or operate within, premises that offer shared workspaces, we have been asked by Members to explore what clarification and guidance can be offered to the Licensing Committee when scrutinizing and dealing with similar applications in the future.
- 1.2 For the purpose of this report, a shared workplace or shared workspace can be defined by being a building that has been converted into office space, which is operated overall by one company that rents workspace to many different entrepreneurs and small businesses. Its general offering is of hot-desk working, meeting spaces, single or team desk hire and/or private office space, etc., usually to freelance workers and/or small or medium businesses who do not want to rent offices of their own. Customers who rent such office spaces are often termed 'members' of the applicant companies, however this term is not the same as members of clubs operating under a Club Premises Certificate.
- 1.3 Licensing Guidance, issued under Section 182 of the Licensing Act 2003, states that each application must be considered on its own merits. While the council's Statement of Licensing Policy (SoLP) does provide some guidance within its matrix approach on terminal times for licensable activities in pubs, cafes and restaurants, etc., it does not provide specific guidance for premises that could be defined as shared workplaces. The SoLP does refer to non-alcohol led premises in its Matrix Approach table; however, evidence suggests that previous licensing panels have not been keen to apply this definition to shared workplaces. This report looks into whether clarification on shared workplaces can be provided to the Licensing Committee for instances where Premises Licences are applied for. Investigation in to this matter has

included national research with other Local Authorities, liaison with Public Health and Economic Development colleagues and a review of research papers and online resources.

2. RECOMMENDATIONS:

- 2.1 That Members of the Committee note the contents and information in this report.
- 2.2 That Members concerns about alcohol in shared workplaces are fed into the 2020 review of the SoLP with a view to creating a possible new category in the Matrix.
- 2.3 That the Licensing team scrutinize operating schedules of applications for shared workplaces and ask applicants to provide details of their alcohol workforce policy.

3. RELEVANT BACKGROUND INFORMATION AND CHRONOLOGY OF KEY EVENTS:

- 3.1 Since May 2017, the Licensing Authority has received five applications for Premises Licences to be issued for premises that also have a shared workspace offer. Five of these applications have been made by the company who operate the shared workplace and one was made by a café franchisee operating within the building of the shared workplace.
- 3.2 Below are the details of the applications made and their outcomes. Descriptions given below are taken from the applicants' own submissions:

Date received:	May 2017
Area:	CIZ
Applied for:	Sale of alcohol (on the premises): 16:00 – 20:00 Every Day (plus no more than 6 extensions between 16:00 – 23:00 per year).
Description:	Alcohol was to be supplied to 'members' only, with no direct sale of alcohol taking place – it would form part of the 'member contract' that alcohol was available for them between the stated hours. Application went to Sub-Committee hearing due to reps made by a local business, a Resident Association, Sussex Police and The Licensing Authority.
Decision:	Refused by panel (applicant was absent at hearing and panel felt they did not have enough information about the operation and that the application would negatively impact the CIZ).

Date received:	August 2017
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Area:	SSA
Applied for:	Sale of alcohol (on the premises): 11:30 – 20:00 Monday to Friday.
Description:	Alcohol to be sold from both a ground floor café/deli and a bar on the sixth floor which is used for events/meetings only. Alcohol is not part of membership, but only members and those signed in to the building can access the café and therefore buy alcohol. Also, we want to provide alcohol as part of catering packages for meetings and events on site. Alcohol only to be consumed on ground or sixth floor, no other floors. Ground floor comprised of a café/deli space, three meeting rooms, break out areas and 'quiet space'. Applicant agreed conditions with Sussex Police during consultation period. Application went to Sub-Committee hearing due to reps being received from a local resident, a Residents' Association and a local Councillor.
Decision:	Refused by panel (the panel felt that there were issues that the applicant did not fully consider and aspects of the application that remained unclear. The panel did not believe it is appropriate to grant the licence in its current form and therefore refused the application).
Date received:	July 2018
Area:	SSA
Applied for:	Sale of alcohol (on and off the premises): 07:00 – 23:00 Every Day
Description:	Application made for a café/deli on ground floor and sixth floor bar area, with off sales to allow members to buy alcohol and then take it back to their desks on other floors. Applicant agreed a condition with Sussex Police that no off sales could be taken off the actual premises and were only to allow people to buy alcohol from the licensable areas on ground or sixth floor to take to other areas in the building.
Decision:	Granted by panel (the application was amended during panel hearing and the following conditions attached: <ol style="list-style-type: none"> 1. Sale of alcohol on the premises only, Monday to Friday from 12:00 midday to 21:00 hours; Saturday 12:00 to 17:00 hours. 2. There is to be dispensation from the above times for up to ten occasions per year in which alcohol may be sold from 07:30. There shall be 48 hours' notice to the police on such occasions. 3. There shall be no consumption of alcohol in the other non-licensed areas of the building and

appropriate signage shall be displayed throughout the building to reinforce this.

4. The sale of intoxicating liquor on the ground floor shall only be for consumption by persons seated at tables within the café bar area and on the sixth floor only by persons seated. There will be no vertical drinking in the licensed areas and substantial food shall be available at all times.

5. All other conditions attached to the licence as per the operating schedule of the application, except the one relating to off-sales.)

Date received: September 2018
Area: Other
Applied for: Sale of alcohol (on and off the premises):
09:00 – 23:00 Every Day
Description: Self-contained unit located at Hove Town Hall, over ground and mezzanine floors, providing a public café offering refreshments and facilities for business meetings, a lecture theatre and outside area in front of the Town Hall.
The applicant agreed conditions with Sussex Police and Environmental Health including:
1. Substantial food (which for the purpose of this licence means at least a sandwich) shall be available at all times that alcohol is offered for sale on these premises
2. The sale of intoxicating liquor and other beverages within areas accessible to the public shall be for consumption by persons seated at tables and there will be no vertical drinking before 4pm
3. From 4pm for pre-arranged events held inside the premises, for educational, networking or other similar events linked with the use of the premises to promote business vertical drinking will be permitted. A record of such of events will be kept on the premises and available for inspection by the Licensing Authority or the police.
4. The outside area shall be cleared of patrons by 23.00 hours.
5. All tables and chairs shall be removed from the outside area by 21:00 hours from 1st October to 30th April in any given year and by 22:30 hours between 1st May and 30th September in any given year.
No representations were received.
Decision: **Granted**
Date received: October 2018
Area: CIZ

Applied for:	Sale of alcohol (on the premises): 18:00 – 22:00 Monday – Wednesday and 16:00 – 22:00 Thursday - Sunday
Description:	This is a co-working member's only space. We intend for the premises to have a small bar operation, also to be offered for evening event space. We will also have a maximum of 200 members who we will know personally. Application went to Sub-Committee hearing due to a rep made by The Licensing Authority.
Decision:	Refused by panel (the panel were not satisfied that even with the conditions agreed with the Police that there would be no negative impact were a licence to be granted. The application is contrary to policy and not exceptional).

4. CONSULTATION

4.1 Research conducted online found that shared workplace companies are operating in moderate to large numbers in the metropolitan Licensing Authority areas of Westminster, Manchester, Leeds and Birmingham. Each of these Local Authorities were contacted by email and asked if they had noticed a similar rise in Premises Licence applications for shared workplaces, what their approach to dealing with these had been and if they had encountered any issues. They were also asked if any representations were received and whether the applications were heard and decided by a Sub-Committee panel.

4.1.1 A response was received from Westminster City Council, confirming that they have seen a number of these applications over the past few years. They confirmed that they tended to grant them with very stringent conditions and in some cases limited to the operation of the venue as a shared workspace and the sale of alcohol limited to those who are tenants ('members') and their bonafide guests. Westminster have identified three separate Cumulative Impact Areas in their SoLP, however it was not confirmed whether any of the licences granted to shared workplaces are in these areas.

4.1.2 A response was received from Manchester City Council, confirming that they had recently received four similar applications. They confirmed that applications were granted in a similar way to those in Westminster, with similar conditions attached. They confirmed that none of the applications received had gone through the hearing process and all had been granted after conditions were agreed with Responsible Authorities. Applications received were not made in a CIZ as the city's CIZs are mainly located in student areas.

Manchester City Council confirmed that an SIA condition was replaced via variation on one of the granted licences, with a condition that requires 'the manager responsible for the premises to ensure that the area of the premises where alcohol is supplied is regularly patrolled by management and housekeeping teams during the hours that supply of alcohol is permitted, to ensure compliance with the Licensing Act 2003 and the company's Responsible Alcohol Management Plan'.

- 4.1.3 Responses were not received from Birmingham City Council or Leeds City Council.
- 4.2 Consultation was also undertaken on the Licensing Guru website (a site for Licensing professionals) by placing a question in an online forum, asking if any other Licensing Authorities had received applications for Premises Licenses in shared workplaces and how these were dealt with.
 - 4.2.1 One relevant response was received on Licensing Guru, from an officer who had previously worked at Tower Hamlets Council. They confirmed that the LA had issued a Premises Licence to a shared workplace company in 2016 and that it had conditions attached stating that only members, employees and bonafide guests can be supplied alcohol, SIA staff have to patrol the premises and signage should be displayed regarding residents and underage sales.
- 4.3 Consultation was also conducted with all Sussex Authorities, who were each emailed and asked to respond if they had received similar applications.
 - 4.3.1 There were no responses to this request from any Sussex Authorities.
- 4.4 Consultation was attempted with two providers of shared workspaces, who were asked which of their London premises had been issued with a Premise Licence, however no responses were received. The theory behind this line of consultation was to identify the premises and then interrogate the relevant Licensing Authority public register and contact the relevant Licensing Officer. However, this was not possible without addresses being provided as the companies operating the workspaces do so over the whole of London and are often not the Premises Licence applicant.
- 4.5 Dr Peter Wilkinson, Consultant in Public Health working in the Health and Adult Social Care Directorate was also consulted on whether he could provide any comment on the sale of alcohol in shared workplaces

and whether the 'Public Health Framework for Assessing Alcohol Decisions' document could be used to offer guidance within this report.

- 4.5.1 Dr Wilkinson replied: "I don't think the Framework can really help much other than as it does at present based on the geographical location. In general with workplaces it is about having alcohol policies in place for staff, but I don't know whether that has ever been applied to a whole premises with more than one organisation in place. Clearly one of the potential harms from a public health perspective is the impact of alcohol being readily available throughout the working day. The more traditional 9-5 workstyle of a large employer lends itself much more to an alcohol workforce policy which expects no drinking of alcohol whilst at work. Staff then go to the pub with colleagues after work or home to drink.

The workstyles being considered here are more flexible hours being worked by small numbers of people working in small units within a larger premises. From a public health perspective (and health & safety, information governance, etc.) it would still be good practice for employers to have a workforce alcohol policy and for employees not to have access to alcohol during work hours. Who would want their staff's work performance to be under the influence of alcohol? The tricky part is if the working day extends from 8am to 10pm and the socialising part is included in it and is an integral part of the work culture. Would these staff pop out to the pub if they couldn't drink on site or would they have a coffee instead?

If awarded a licence, it would seem reasonable to expect employers to have alcohol workforce policies in place or to sign up to the overarching premises policy? Including expected behaviours would be helpful too. As seen in examples from elsewhere the "members and bona fide guests" seems a good compromise where a public café is not being operated".

5. RESEARCH

- 5.1 An online search found that there are at least 13 different companies offering over 250 different shared workspace premises in London. Multiple numbers of shared office spaces are also on offer in all major cities in the UK. Whilst these do not all have Premises Licences or supply alcohol to their members, the numbers identified show that there is a large and growing market for shared space working. Writing for Forbes Online on 30th January 2018, Tamara Schwarting says, "co-working today is booming as a new generation of entrepreneurs, consultants, freelancers, and corporate organizations re-think the overhead costs of business and the value of collaborative work". Catrin Mackie, a Commercial Property solicitor working for Capital Law adds to this in her October 2018 online article on the rise in this modern way of working, confirming that it provides an affordable and flexible way for small businesses to work alongside and network with other likeminded

people. Mackie goes on to say that these shared spaces offer a collaborative approach to working to a generation of workers who are 'tech savvy', dynamic and innovative and implies this demographic will seek this type of office space increasingly in the future.

- 5.2 Nick Hibberd, BHCC Executive Director for Economy Environment & Culture and his colleagues in Economic Development have provided further context to these types of premises appearing in both the UK and Brighton & Hove, confirming that "according to the latest research from Cushman & Wakefield (one of the world's largest commercial property and real estate services companies), demand for flexible workspace across the UK saw record growth in 2017. Around two thirds of the UK flexible workspace market is outside London, with take-up of flexible workplaces in the UK's largest regional cities increasing from 2% of all city centre lettings in 2016 to 7.5% of take-up in 2017".

Giving an overview of the city's economic development and in relation to shared workplaces appearing in Brighton & Hove, Mr Hibberd confirmed "the Brighton & Hove economy comprises 140,000 jobs and 16,000 businesses. Eighty-six percent of the city's business base is micro, employing less than ten people; with only around 50 businesses employing more than 250 people in the city.

Brighton & Hove is home to an enterprising economy, with high levels of start-ups and one of the UK's largest homeworker population. Self-employment has grown at a faster rate in Brighton & Hove than the rest of England, with around one in five people (31,000) in self-employment. Around 13% of residents work from home which is higher than the national average. Brighton & Hove has one of the largest per capita concentrations of creative businesses; attracted by the city's progressive attitudes and ethical credentials. The sector is clustered primarily in and around the famous North Laine area of the city which is home to many bars and coffee shops that have acted as pseudo offices and networking spaces for freelancers and small businesses. Latterly, this demand for networking and collaboration space has resulted in the rise of new co-working space in the city. This model offers more flexibility than the traditional office structure by offering leases on desk spaces rather than rooms, varied hours of access to fit in with alternative working hours and meet-up areas (often in-house or co-located bars and cafes), to encourage networking and joint working. There are now over a dozen such spaces in the city responding to this demand. In responding to the demand for co-working space, providers are increasingly offering benefits over and above the standard office services. Many are providing on-site business support services, sector focused or general business events and community facilities for its members. A sector report, published in November 2015 by Deskmag, which looked into the rise in the popularity of co-working spaces, found that co-workers were looking to connect, socialise, share knowledge, brainstorm and make connections that could lead to jobs and contracting opportunities. Many had migrated from a home office environment and many preferred to

work in an open space rather than a private office supporting the desire for interaction with others”.

5.3 Online research has uncovered a large amount of employers that offer free alcohol in the workplace to their employees. Examples of this practice include PR firm Hill and Knowlton who has a bar and terrace at its London offices, Saatchi and Saatchi has an in-office pub for staff and London-based marketing firm BSC Agency have drinks trolleys and beer carts that are made available in the office at the end of the working week. However, this practice of giving out free alcohol as an employee perk differs to the shared workplace model, as sales of alcohol are not being made. Many of the people using shared workplaces are not employed and are freelance workers. Shared workspace providers require Premises Licences where they supply alcohol to members, as there is a business relationship between them and their members. Where they wish to provide alcohol to members via the membership fee, the sale of alcohol is made when membership fees are paid. Equally, where they want to provide a point of sale at which alcohol can be ordered, the sale of alcohol takes place.

5.4 An online review was undertaken of research conducted in to workplaces and alcohol, however specific research papers could not be found that cover alcohol consumption in the workplace. It was further identified that there are very few recent studies that cover alcohol and its impact on the workplace. Peter Anderson’s 2012 research paper titled ‘Alcohol and the workplace’ reviews workplace-based alcohol policies in Europe, which in turn cover matters such as productivity, absenteeism, workplace intervention, peer support and health promotion programmes. Anderson reports that there is certainly evidence of the negative impact of alcohol on the workplace, however as there are few good-quality research studies in to this area; it is not possible to determine the best way to deal with this. Anderson concludes that prevention activities, such as introducing health promotion and wellbeing at work initiatives could lower the impact of employee alcohol consumption. It is noted however, that the report refers to employees throughout and not specifically to drinking at the workplace, or to the self-employed sector.

Research undertaken in Australia by Pidd, Kostadinov and Roche, published in September 2015, looked at whether workplace policies used as a strategy to prevent or manage alcohol and other drug use were effective. They concluded that there was value and efficacy of such policies and noted that even basic policies could be associated with reducing high risk drinking.

The Government’s Alcohol Strategy published in March 2012 states that it expects to see progress on workplace alcohol education and prevention programmes, which the above research supports.

5.5 Due to the perceived age of shared space workers being in a younger demographic, research was made in to the drinking habits of this age

group. A report titled 'Youth drinking in transition' published in September 2016 by Demos, a British cross-party think-tank, explored the drinking habits of young adults in Great Britain. The report specifically includes a chapter on drinking and working and finds that the most common reason for drinking alcohol among young workers, aged 18-34, was not directly related to their work environment, but instead was related to drinking with friends from outside of work. The same report finds that 66% of those surveyed aged 16-24 do not feel that alcohol is an important factor in their social lives. In addition, the Office of National Statistics released a report in May 2018 titled 'Adult drinking habits in Great Britain: 2017', which found that young people aged 16 to 24 years in Great Britain are less likely to drink than any other age group.

6. CONCLUSIONS

- 6.1 It is advised that Committee members be aware of the fast growing demand for modern shared working spaces and that this could result in an increase in these spaces being offered in Brighton and Hove. In turn, there could be an increase in applications for Premises Licences to be issued for these premises, or parts of these premises.
- 6.2 It is noted that the five applications received so far by Brighton & Hove City Council, that have proposed alcohol sales within premises that also offer shared workspaces, have each been unique in their proposed method of the supply of alcohol. One application proposed alcohol was to be included with membership, so no physical sale would take place. The other applications proposed points of sale with one proposing alcohol was to only be consumed by members and their guests in defined areas of the premises, whilst another included off sales, so that alcohol could be taken away by members from the licensed area of the premises to other parts of the premises. A similar application to this was received, although the applicant wanted a public café with alcohol bought being allowed into the shared workspace area. Another proposed alcohol sales within a members only bar.
- 6.3 Whilst it is relatively easy to identify how a pub will operate and to attach conditions to licences to ensure premises are operated as cafes or restaurants, there is no evidence at this stage to conclusively define the operation of Premises Licences in shared workplaces. The Licensing Authority have received five different applications, with the common theme being that the licensable activity is attached to a shared workplace in some way. However, each application received has been unique in its proposed method of alcohol sales, which sometimes falls outside of the shared workspace itself.
- 6.3 There is no evidence to suggest that other Local Authorities have encountered issues with these licences, but they have been issued in different Licensing Authority areas with conditions attached.

- 6.4 In all research conducted into workplaces and alcohol, it is clear that there is evidence that alcohol can have a negative impact on workplaces. It also clear that workplace policies on alcohol consumption are effective and are supported by the Government. It is therefore suggested that the Licensing Authority could, on a case by case basis, expect applicants for Premises Licences that are related to a shared workplace to provide evidence of promoting the Licensing Objectives through their policy on health and wellbeing and responsible drinking for members, to support their application.
- 6.5 Officers advise that every application received continues to be considered on its own merits in line with Guidance and the council's Statement of Licensing Policy and where relevant, the special policies for Cumulative Impact and Special Stress. Licensing Guidance states: "Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned". Additionally: "Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy".

7. FINANCIAL & OTHER IMPLICATIONS:

7.1 Financial Implications:

There are no financial implications arising from the production of this statement, as licensing fees are set at a level that will be cost neutral to the licensing authority.

Finance Officer Consulted: Michael Bentley

Date: 23/01/19

7.2 Legal Implications:

There are no direct legal implications arising from the report

Lawyer Consulted: Rebecca Sidell

Date: 23/1/19

7.3 Equalities Implications:

None.

7.4 Sustainability Implications:

None.

7.5 Crime & Disorder Implications:

None.

7.6 Risk and Opportunity Management Implications:

None.

7.7 Corporate/Citywide Implications:

None.

SUPPORTING DOCUMENTATION

Appendices: None

Documents in Members' Rooms: None

Background Documents: None

Documents In Members' Rooms: None

