

Crawley Borough Council

Report to Licensing Sub Committee 17 September 2019

APPLICATION FOR A REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF

DÉJÀ VU BAR

26-32 High Street, Crawley, RH10 1BW
(Northgate & West Green Ward)

Report of the Head of Community Services HCS/15

1.	Purpose	Reference Documents
1.1	<p>On 24th July 2019, Sussex Police as a 'Responsible Authority' submitted an application to Crawley Borough Council ("the Council") as the Licensing Authority for the Borough of Crawley for a REVIEW of the premises licence in respect of DÉJÀ VU Bar, 26-32 High Street, Crawley, RH10 1BW under the Licensing Act 2003 ("the Act"). This was received by the Licensing Authority on 25th July 2019.</p>	APPENDIX A Application to Review Premises Licence
1.2	<p>Sussex Police has requested a review on the grounds that the licence holder is not promoting the Licensing Objectives contained within the Act, in particular:</p> <ul style="list-style-type: none">(I) Prevention of Crime and Disorder;(II) Public Safety;(III) Protection of children from harm.	
1.3	<p>This report sets out the review application and what the Act requires the Council to do in respect of it. The report also sets out other documentation and matters which ought to be considered before a decision is made.</p>	

2.	Decision to be made	
2.1	<p>The Sub-Committee must, having had regard to the application and any relevant representations, take such steps, if any, it considers necessary for the promotion of the Licensing Objectives. The steps are:</p> <ol style="list-style-type: none"> I. to modify the conditions of the licence.* II. to exclude a licensable activity from the scope of the premises licence. III. to remove the Designated Premises Supervisor (DPS.) IV. to suspend the licence for a period not exceeding three months. V. to revoke the licence. <p>*For this purpose the conditions of the licence are modified if any of them are altered or omitted or any new condition is added</p>	<p>Section 52(4) of the Licensing Act 2003 (“The Act”)</p> <p>APPENDIX A Application to Review Premises Licence</p> <p>APPENDIX C Relevant representation submitted by Premises Licence Holder (To Follow)</p> <p>APPENDIX D Relevant representation submitted by WSCC Public Health Department</p> <p>APPENDIX E Relevant representation submitted by West Sussex Fire and Rescue Service</p>
3.	Additional matters to be considered	
3.1	The Licensing Sub Committee must consider each application on its merits, in accordance with the provisions within the Act.	
3.2	The Act requires licensing authorities to carry out their functions with a view to promoting the 4 Licensing Objectives. The licensing objectives are detailed below in section 4.2.	Section 4(1) of the Act
3.3	<p>In reaching its decision, the Sub Committee must also have regard to:</p> <ul style="list-style-type: none"> - The Section 182 Guidance issued under the Licensing Act 2003, April 2018; and <p>The Council’s Statement of Licensing Policy 2019 – 2024. A full version of the Statement of Policy can be downloaded here: CBC Licensing Policy 2019-2024</p>	Section 4(2) of the Act
3.4	The failure to promote the Licensing Objectives under the Act, and the potential crime and disorder impact are relevant factors in the consideration of all applications. This is made clear within the Act and associated Section 182 Guidance, April 2018, issued in conjunction with the Act. A full copy of Section 182 Guidance (April 2018) is included as part of the Members Reference Pack, but can also be downloaded: Section 182 Guidance (April 2018) issued under the Licensing Act 2003.	Section 182 Guidance issued in conjunction with the Licensing Act 2003 (April 2018)

3.5	In considering any representations or notice made by a party, the Sub Committee may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.	Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005
3.6	The Licensing Sub Committee must give reasons for its decision.	Section 52(10) of the Act
4.	Background	
4.1	The Council is the relevant Licensing Authority in relation to any premises within the Borough of Crawley which is to be used for one or more licensable/qualifying activities in accordance with the Act.	
4.2	At any stage, following the grant of a premises licence, a Responsible Authority or any other person may ask the Council as Licensing Authority to Review a Premises Licence because of matters arising at a premises in connection with one or more of the Licensing Objectives, which are: <ul style="list-style-type: none"> - Prevention of crime and disorder, - Public safety, - Prevention of public nuisance and - Protection of children from harm. 	Sections 4 and 51 of the Act
4.3	Chapter 11 (Pages 89 – 94) of the Section 182 Guidance issued in conjunction with the Licensing Act 2003 deals with the review of a Premises Licence.	Section 182 Guidance issued in conjunction with the Licensing Act 2003 (April 2018)
4.4	An extract from the Statutory Guidance issued under Section 182 of the Licensing Act 2003, dated April 2018 states: <p><i>“11.1 The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.</i></p> <p><i>11.2 At any stage following the grant of a premises licence or club premises certificate, a Responsible Authority or any other person, may ask the Licensing Authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four Licensing Objectives.”</i></p>	Section 182 Guidance issued in conjunction with the Licensing Act 2003 (April 2018)

5.	Premises & Licence Holder Information	
5.1.	Déjà Vu Bar 26-32 High Street, Crawley, RH10 1BW is a licensed premises subject to the stated terms and conditions under the Act. The Premises Licence holder (PLH) is listed as DÉJÀ VU CLUBS LTD. Company Number 10219779. The company became the PLH upon transfer from the former holder on 20th July 2016. A copy of the current Premises Licence and a layout plan are included at Appendix B.	APPENDIX B Copy of current Premises Licence issued under Licensing Act 2003 (includes layout plan.)
5.2	The Designated Premises Supervisor (DPS) is listed as Mr Noel Antony Samaroo.	
6.	Review Process & Application	
6.1	When submitting an application to Review a premises licence, the applicant, in this case Sussex Police, are required to send copies of the application to all Responsible Authorities as defined by the Act.	Regulation 27A of the Licensing Act 2003 Premises licences and club premises certificates) Regulations 2005
6.2	In addition, the Licensing Authority is required to place a Public Notice both on the premises and at the Council Offices in a place where it could be clearly seen by the public. This was completed, and the Notice detailing the Review application remained on display for 28 consecutive days to allow for any further representations to be made.	Regulation 38 of the Licensing Act 2003 Premises licences and club premises certificates) Regulations 2005
6.3	<p>The representation period concluded at midnight on 22nd August 2019. In addition to the representations made by Sussex Police as part of the application to Review the Premises Licence, the following were received:</p> <ul style="list-style-type: none"> - No response to the application to Review the Premises Licence, have been received from Mr Noel Samaroo, the Designated Premises Supervisor and on behalf of Déjà Vu Clubs Limited as the Premises Licence Holder (PLH). This is to follow and is marked as Appendix C - On 15th August 2019, Lead Officer, Holly Yandall, acting as the Spokesperson for West Sussex County Councils (WSSCC) Public Health Department as a Responsible Authority lodged a representation to the application to review the premises licence. This is included at Appendix D 	<p>APPENDIX A Application to Review Premises Licence.</p> <p>APPENDIX C Representations from Premises Licence Holder (PLH)</p> <p>Appendix D Representation from WSSCC Public Health</p> <p>APPENDIX E</p>

	<p>On 6th August 2019, Kaye Adams of West Sussex Fire and Rescue Service submitted a representation to the application to review the premises licence. This is included at Appendix E</p> <ul style="list-style-type: none"> - Jean McPhearson on behalf of the Planning Authority acknowledged the application to review the Premises Licence but makes no planning comments 	<p>Representation from West Sussex Fire and Rescue Service</p> <p>APPENDIX F No comments from Planning Authority.</p>
7.	Details of Sussex Police’s Review Application	
7.1	<p>Within their application , Sussex Police state that they</p> <p>“...have considered the failings encountered at this premises and of the shortcomings of Mr Noel Samaroo as the DPS and PLH of Déjà Vu despite repeated interventions by Sussex Police...”</p> <p>“Sussex Police therefore contend that that a number of further measures are necessary to ensure that the licensed premises can be run safely and to the benefit rather than the detriment of the local community.”</p>	APPENDIX A Application to Review Premises Licence
7.2	As part of its application, Sussex Police submitted CCTV recordings as evidence. The footage has been made available to all relevant parties, including the Sub Committee, in advance of the Hearing. It is anticipated that Mr Samaroo on behalf of the PLH will submit footage but has not done so at the time of writing this report. This will follow.	
7.3	The measures Sussex Police contend in its application are necessary are detailed below together with Sussex Police’s reasons.	
7.4	<ol style="list-style-type: none"> 1 A new Designated Premises Supervisor shall be appointed whose day to day control of the premises shall focus on ensuring the premises is properly supervised during the hours of the Night Time Economy. <p><i>Reason: Sussex Police consider this necessary to ensure that a strong personal licence holder is able to take control and run the premises in accordance with the licence and the Licensing Act 2003 and is working at the premises for the opening hours during Night Time Economy, as far as is practicable.</i></p> <ol style="list-style-type: none"> 2 The DPS or a Personal Licence Holder will be on the premises, in a working capacity, each day until all members of the public have left the premises and its curtilage. <p><i>Reason: Sussex police consider this appropriate to reduce the levels of drunkenness at the premises and support staff in providing a duty of care to patrons. This will also assist to</i></p>	

promote the licensing objectives and adherence to the licence condition

- 3 A single fully functioning CCTV system shall be installed capable of providing playable copies of footage, in accordance with the Home Office guidance. The DPS or duty manager (personal licence holder) shall be capable of providing copies of footage upon request.

Reason: *To ensure all request for CCTV are swiftly & efficiently provided.*

- 4 The DPS or duty manager shall be on site at all times.

Reason: *To ensure all request for CCTV are swiftly & efficiently provided.*

- 5 The SIA door supervisors for this premises must be employed through an external SIA door company* (SIA – Security Industry Authority Registered.)

Reason: *To ensure all appropriate and up to date training is managed and that SIA door staff are supervised by an independent dedicated SIA registered company.*

- 6 All SIA door staff shall utilise functioning body worn video cameras at all times when they are on duty.

Reason: *To ensure all ejections refusals & interactions are properly monitored & recorded.*

- 7 The premises licence holder shall implement a Duty of Care policy which shall be included in staff training for all members of bar staff and SIA door staff.

Reason: *Sussex police consider this appropriate to reduce the levels of drunkenness at the premises and to support staff in providing a duty of care to patrons.*

- 8 Signage stating that the premises has a zero tolerance towards drugs.

Reason: *To promote the prevention of Crime & Disorder in relation to illicit drug.*

- 9 A drugs policy shall be included in staff training for all members of bar staff (and SIA door staff).

Reason: *To promote the prevention of Crime & Disorder in relation to illicit drugs & to ensure seizure procedure is adhered to.*

- 10 The premises shall cease licensable activity at 01:00 hours.

Reason: *Sussex Police consider this is necessary to prevent the repeated breaches of the conditions currently attached*

	<p><i>premises licence pertaining to 'no entry to the premises after 01:00 hours designed to reduce levels of intoxication.</i></p> <p>11 No children shall be admitted to the premises at any time. Reason: <i>To protect children from harm.</i></p> <p>12 Suspension of the licensable activities at the premises, for a period of not less than eight weeks. Reason: <i>Sussex police consider a suspension of this length to be appropriate; allowing the premises to benefit from a 'reset' and the PLH sufficient time to achieve the following:</i></p> <ul style="list-style-type: none"> • <i>To instate a new DPS.</i> • <i>To install a new functioning CCTV system.</i> • <i>To appoint a new independent SIA door company.</i> • <i>To ensure sufficient BWV cameras are available for all SIA door supervisors on duty.</i> • <i>To ensure that the new DPS and all the staff (including any new staff), involved in licensable activity are fully trained (retrained) and conversant with the conditions attached to the premises licence. (including any new conditions should they be attached by the licensing committee). (* For the avoidance of doubt, reference to Licensing Committee should read Licensing Sub Committee)</i> • <i>To give the new DPS time to familiarise themselves with the premises, with the concerns held by Sussex Police and to review current management practices.</i> • <i>To allow the PLH time to ensure all policy documents are up to date and fit for purpose.</i> • <i>To ensure that the new SIA door company are aware of the recent drugs readings and to produce an agreed approach to managing these.</i> • <i>Ensure all relevant permissions are in place.</i> 	
7.5	<p>Sussex Police also state:</p> <p><i>“This will also demonstrate that the Local Authority will not tolerate this level of mismanagement. The period of suspension will send a clear message to patrons that management of the premises has changed and that the behaviour previously allowed will no longer be tolerated.”</i></p>	

7.6	On various dates since the application to review the Premises Licence, Sussex Police submitted additional bundles of evidence and CCTV footage to support the application to review the premises licence. They also make reference to typographical errors. This evidence is included at Appendix G - K.	Appendix G – K Additional evidence bundle from Sussex Police
7.7	It is worth noting in Appendix J, that Sussex Police are now seeking a revocation of the premises licence on the grounds specified.	APPENDIX J Sussex Police evidence now seeks a revocation of the Premises Licence
8.	Representations – Premises Licence Holder - Application to Further Adjourn - Evidence in response to the review to follow	
8.1	At the time of writing this report Crawley Borough Council as the Licensing Authority are awaiting a bundle of evidence from Noel Samaroo, Designated Premises Supervisor, also acting on behalf of the Premises Licence Holder, DÉJÀ VU CLUBS LTD, in response to the application to review the Premises Licence This will follow as Appendix C.	Appendix C To follow Evidence produced by DPS/ PLH in response to the Review Application
8.2	On 5 th September 2019, Mr Samaroo made an application to adjourn the hearing in respect of the Review from the 17 th September 2019. The grounds for seeking an adjournment were: “We would formally and respectfully request this adjustment on the grounds that we are awaiting FOI requests from West Sussex Ambulance Service and Sussex Police In light of the representation received from the health Authority we feel that our case is highly prejudiced without this information.” APPENDIX L	APPENDIX L Application to adjourn 8 th October 2019 Review Hearing
8.3	On 9 th September 2019, Notice was given to all interested parties that under Regulation 11(2) of the Licensing Act 2003 (Hearings) Regulations 2005 (“the Regulations”).to extend the period of time within which the hearing to consider the representations of Sussex Police, Public Health Authority and West Sussex Fire and Rescue Service must be held	
8.4	The details of the decision and the reasons to allow the adjournment it are set out below. “1) On 5th September 2019, you advised the Council that “We are awaiting the outcome of Freedom of Information requests from West Sussex Ambulance Service and Sussex Police. This information is, sought In light of the representation received from the health Authority we feel	

	<p>that our case is highly prejudiced without this information.”</p> <p>2) The Council believes that it is in the public interest to provide you with a further opportunity to present relevant information to the Licensing Sub Committee and to attend the hearing.</p> <p>Under the Regulations, the time limit for when a hearing relating to an application to vary a licence must be heard is 20 working days following the last day of the period within which representations can be made.</p> <p>The Council has decided to extend the period within which the hearing must be heard from 20 workings days to 40 working days.”</p>	
8.5	<p>On 16th September 2019, all interested parties were advised of the new hearing date of 8th October 2019 at 1030 hours. Mr Samaroo confirmed his attendance, but in an email dated 19th September 2019, expressed concern regarding the apparent shortness of time and included correspondence between himself, Sussex Police and Sussex Ambulance Service These e mail attachments could not be opened by the Licensing Authority. Mr Samaroo was advised of this by Ms Plympton, but nothing further has been recieved. The email is included at Appendix L</p>	<p>APPENDIX L 19th September 2019 Email from Mr Samaroo regarding adjournment and submissions</p>
8.6	<p>There has been ongoing communication between Ms Plympton, Mr Samaroo and Sussex Police regarding the hearing on 8th October 2019, the submission of evidence and to establish the progress of information sought by Mr Samaroo under the Freedom of Information request.</p>	
8.7	<p>On 24th September 2019, Ms Plympton contacted Mrs Giddings, Police Licensing Officer to ascertain whether the Freedom of Information request submitted by Mr Samaroo had been dealt with.</p>	
8.8	<p>Mrs Giddings confirmed that the original Freedom of Information request had been submitted on 1st August 2019, but clarification was sought regarding what Mr Samaroo required. The Freedom of Information request was formally logged with Sussex Police on 7th August 2019, and a final response to Mr Samaroo was sent on 20th September 2019.</p>	
8.9	<p>On Sunday 29th September, Mr Samaroo e mailed Ms Plympton seeking a further adjournment to the hearing. This is included as Appendix M.</p>	<p>APPENDIX M 30th September 2019 Mr Samaroo request for adjournment to review hearing on 8th October 2019</p>

8.9	On Monday 30 th September 2019, Ms Plympton emailed Mr Samaroo in response to his e mail seeking an adjournment. This is included at Appendix N	APPENDIX N Licensing Authority response to application to adjourn by Mr Samaroo
8.10	All interested parties, namely the Public Health Body, West Sussex Fire and Rescue Service and Sussex Police were advised of Mr Samaroos application to seek a further adjournment to the hearing. A further hearing date of 18 th September 2019 was suggested	
8.11	Their views on the proposed adjournment and potential new hearing date were sought as they had made a representation as part of the Review process. However, it was made clear that the matter would be referred, according to the Councils Constitution, to the relevant person/body within the Council for consideration.	
8.12	Mr Samaroo indicated that he was available on 18 th September 2019. Ms Yandall, representing Public Health indicated verbally that she would make herself available to appear at any hearing	
8.13	At the time of writing this report, no response has been received from West Sussex Fire and Rescue Service.	
8.14	Mr David Bateup, Police Licensing Officer for Sussex Police made representations against any adjournment to the hearing to Review the Premises Licence. This is included at Appendix O	APPENDIX O 30 th September 2019 Email from Sussex Police against adjournment
8.15	All representations regarding a further adjournment were duly considered in accordance with the Councils Constitution and a decision taken to refer the matter back to the Licensing Sub Committee for consideration at the hearing on 8 th October 2019. A copy of this decision, and details relating to the hearing on 8 th October 2019 have been circulated to all interested parties. Appendix P.	APPENDIX P 30 th September 2019 Email to all interested parties to advise case referred to Licensing Sub Committee on 8 th October
8.16	At the time of writing this report, no further evidence in relation to the application to Review the Premises Licence has been received from Mr Samaroo. It is referred to in this report as Appendix C and is anticipated that evidence will be received on 1 st October 2019. It will be sent as a supplementary agenda item.	APPENDIX C To follow Evidence from Mr Samaroo in response to review application
9.	Representations – West Sussex County Council Public Health Department	
9.1	As the nominated Responsible Authority for Public Health, they state that they wish “to support the application by Sussex Police to review the licence of Déjà Vu Bar, 26-32 High Street, Crawley, RH10 1BW.” They also stated that:	Appendix D Relevant representation submitted by WSCC Public Health Department

	<p>“WSCC Public Health concurs that the licensing objectives of The Prevention of Crime and Disorder, Public Safety and The Protection of Children from Harm have been undermined.”</p> <p>A full copy of their submission is included at Appendix D.</p>	
10	Policy Considerations	
10.1	<p>Section 5 of the Licensing Act 2003 requires a Licensing Authority to prepare and publish a Statement of Licensing Policy at least every five years. The current Statement of Policy is effective 2019 - 2024. It states:</p> <p><i>“The aim of the Policy is to promote the licensing objectives set out in the Act whilst securing the safety and amenity of residential communities and facilitating a sustainable entertainment and cultural industry....”</i></p> <p><i>“The Council recognizes both the needs of residents for a safe and healthy environment in which to live and work and the importance of safe and well run premises providing entertainment to the local economy and vibrancy of the Borough.”</i></p>	Crawley Borough Council’s Statement of Licensing Policy 2019 -2024
10.2	<p>The Council’s Statement of Licensing Policy 2019 – 2024 makes particular reference to the review of a premises licence under Chapter 7 entitled “ENSURING EFFECTIVE CONTROL OF LICENSED PREMISES” (Paragraphs 7.1 – 7.8, Pages 27-28).</p>	Crawley Borough Council’s Statement of Licensing Policy 2019 -2024
11.	Implications	
11.1	<p>There are no extra staffing or financial implications to the Council, save for those in respect of possible appeal(s) against any decision taken.</p>	
11.2	<p>The Council is required to consider the impact any decision may have on an individual’s Human Rights.</p>	
11.3	<p>The Council is required to consider the impact any decision may have on crime and disorder in the area (Section 17, Crime and Disorder Act, 1998) which states as follows:</p> <p>Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent:</p>	

	<p>(a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and</p> <p>(b) the misuse of drugs, alcohol and other substances in its area; and re-offending in its area</p>	
12	Background Papers	
	<p>(a) Section 182 Guidance (April 2018) issued under the Licensing Act 2003.</p> <p>(b) Crawley Borough Councils Statement of Licensing Policy 2019 – 2024.</p> <p>(c) Licensing Act 2003</p>	

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