

BRIGHTON & HOVE CITY COUNCIL
LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

10.00am 13 MARCH 2009

COMMITTEE ROOM 3, BRIGHTON TOWN HALL

MINUTES

Present: Councillor C Theobald (Chairman); Lepper and Marsh

Officers: Jim Whitelegg (Senior Environmental Health Officer), Rebecca Sidell (Lawyer) and Jane Clarke (Democratic Services Officer)

PART ONE

122. TO APPOINT A CHAIRMAN FOR THE MEETING

122.1 Councillor Mrs Theobald was appointed Chairman for the meeting.

123. PROCEDURAL BUSINESS

123a Declarations of Substitutes

123.1 There were none.

123b Declarations of Interests

123.2 There were none.

123c Exclusion of the Press and Public

123.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I(1) of the Act).

123.4 **RESOLVED** – that the press and public be not excluded from the meeting.

124. SUPERCHEF, 116 ST JAMES' STREET, BRIGHTON

- 124.1 The Panel considered a report of the Assistant Director of Public Safety regarding the application for a variation of a premises licence under the Licensing Act 2003 for Superchef, 116 St James' Road, Brighton.
- 124.2 Mr Hadian and Mr A Hadian attended the hearing to speak in favour of the application, and Mr Bateup from Sussex Police, Dr Thomas and Mrs Henderson both local residents, and Councillor Duncan on behalf of Mrs Bishop and Mrs Shiels attended the hearing to speak against the application.
- 124.3 The Senior Senior Environmental Health Officer began his representation by stating that the application was for an extension of hours and for application of Late Night Refreshment. Representations had been received from local residents and the police citing noise disturbance and that the application was sited in the Cumulative Impact Area.
- 124.4 The Senior Environmental Health Officer reminded the Panel that they must take into consideration the Cumulative Impact Policy when deciding the application, which needed to demonstrate no negative cumulative impact. The Senior Environmental Health Officer highlighted that there was no representation from Senior Environmental Health Officers regarding noise nuisance and they had not received a noise complaint since 2002.

There had been a complaint received in 2008 stating that the premises was open for trade after hours, and Licensing Officers had witnessed this. The Premise Licence had been transferred to a new owner and he had been reminded of the conditions on his licence by the Police. There had been further breaches of conditions however, and a letter of warning was sent in January 2009. It was noted that continued operation of out of hours trade would also breach Planning Regulations, but the Senior Environmental Health Officer stated that these to regimes should remain separate when making a decision on the application.

- 124.5 Mr Bateup from Sussex Police began his representation by stating that the premises remained a problem for the Police, and although a late night licence had been applied for several times, they had objected each time due to the nature of the premises and the sensitive area it was situated in. It was noted that St James Street was a high crime area and residents experienced problems of crime and disorder and public nuisance.
- 124.6 Mr Bateup noted that a recent Licensing Panel had rejected an application in this area by Tesco to sell alcohol, and a further problem premises, known as Jennifer's was situated opposite. He stated that Jennifer's was a useful barometer when considering any further applications for late night licences in this area. A recent Section 161 Notice had been issued in this area after a fatal stabbing had occurred. Sussex Police were very concerned that this application would only increase crime and disorder in this area due to the high frequency of clubbers who frequented St James Street and surrounding streets.

Mr Bateup stated that the applicant had made no reference to the Cumulative Impact Area in his application, which he was required to do. He also noted that although Planning and Licensing were separate regimes, it was important to note that this premises had not been given planning permission to open for late night trading. As such Mr Bateup requested that the Panel refuse the application on the grounds of Prevention of Crime & Disorder.

- 124.7 Councillor Lepper asked whether the Police had been called to the premises for incidents occurring after it was meant to be closed. Mr Bateup stated that there was no specific evidence that this premises was causing problems, but due to the general problems in the area he felt that granting the licence would lead to further problems.
- 124.8 The Chairman asked whether people were allowed to stay on the premises after midnight, and Mr Bateup explained that the premises had to stop trading at 00:00, but customers were allowed to finish consuming food for a short period of time.
- 124.9 Councillor Lepper noted there had been several previous applications for extension of the hours on the licence, and asked if there was a moratorium on applying, if an application had failed already. Mr Bateup replied that applicants could apply as many times as they liked, as often as they liked.
- 124.10 The Panel Solicitor stated that each application had to be treated as a new application and only on its merits.
- 124.11 Dr Thomas began her representation by stating that the application would not uphold the licensing objectives of Prevention of Public Nuisance and Prevention of Crime and Disorder. She stated that the premises was in the Cumulative Impact Area, where applications had to demonstrate they would have no negative cumulative impact, and she did not feel that this application had achieved this, and was already disregarding the conditions on its current licence.

She noted that her concerns were based on experience rather than belief and noted there had been a history of disregard of licensing policy at this establishment, and felt that a legalisation of the hours currently traded would be a dismal prospect for residents. Dr Thomas felt that if this premises was allowed to open late at night, it would attract noisy crowds who would be encouraged to linger in the area and the resulting low level crime and anti-social behaviour would significantly disturb local residents. She noted that there were already many problems in this area, caused by the high instance of licensed premises. She asked the Panel to reject the application on these grounds.

- 124.12 Mrs Henderson began her representation and requested that the Panel maintain the current closing hours for the establishment. She felt that this premises did not contribute to the local community and already noise from passers-by on the street was causing significant disturbance. She had been disturbed by a noisy extractor fan at the premises, and waste bins were not being emptied regularly, and Mrs Henderson felt that this was evidence of the poor management of the premises. If a licence application was granted it would exacerbate already existing problems.

- 124.13 Councillor Duncan began his representation by stating that he was speaking on behalf of local residents as Ward Councillor and on behalf of the Kingscliff Society. He noted that this premises had a long history of causing problems of public nuisance and noise and disorder. He noted that this was principally a residential area and the current restrictions on the licence were entirely appropriate. If the licensed hours were extended it would create further problems of nuisance because experience of these problems was already evident. He asked the Panel to refuse the licence application.
- 124.14 Councillor Marsh asked whether any change in the regime had been experienced since the new owner had taken over, and Councillor Duncan stated that there had been no different.
- 124.15 Mr Hadian began his representation and stated that he had attempted to negotiate with local residents to resolve the problems being experienced, and noted that problems with the extractor fan had already been resolved.
- He noted that he had hired a Security Company that provided a Mobile Support Unit and had installed CCTV in the premises. He felt that all of the problems that the residents were experiencing were due to other premises on the street and did not think that his premise should be penalised due to its location. Mr Hadian stated that he needed the extra hours on the licence to remain competitive with other local businesses that were already open late at night. He offered to have door staff from 22:00 to ensure that there were no problems of crime and disorder from his premises, and noted he wanted to have a good relationship with his neighbours. He noted that if any problems ensued from his premises, the licence could be taken to review and the extended hours removed.
- 124.16 The Chairman asked whether Mr Hadian had known the hours of opening on the licence when he had taken the premises over, and he stated that he had not been open after hours, and there had only been one breach of the licence conditions.
- 124.17 Mr Bateup confirmed that officers had witnessed one incident of trading past opening hours, and a letter had been sent to Mr Hadian on 13 January 2009 reminding him of the licence conditions.
- 124.18 Councillor Lepper asked Mr Hadian to confirm he had abided by the hours on his licence since opening and stated that there had only been one incident of breach since he had been responsible for the premises. He noted that this breach had occurred in the first few weeks of opening and the Premise Licence had not arrived in his possession until after this.
- 124.19 Mr Bateup asked Mr Hadian if he was aware that he could not hold the dual roles of Premises Licence Holder and security door staff, and he confirmed that he was.
- 124.20 Councillor Duncan asked if Mr Hadian was not aware of the hours on the licence before he had taken over the premises, and he stated he was not.
- 124.21 Mr A Hadian, on behalf of Mr Hadian, stated that several Temporary Event Notices had been applied for at the premises and asked whether the residents had

experienced and trouble on those nights where the premises had opened late. The residents confirmed that they had not experienced and further trouble on these nights, and the Senior Environmental Health Officer confirmed that the maximum amount allowed was fifteen per year.

- 124.22 The Senior Environmental Health Officer began his final statement and noted that the granting of the licence would not allow the premises to open late at night as it still needed to gain planning permission. He stated that if the application had shown that it did not have any negative cumulative impact then the licence should be granted. If further conditions needed to be placed on the licence to promote the licensing objectives, then that was the course of action that should be taken. If the Panel were minded to refuse the application, then they should state the reasons why conditions would not be effective in promoting the licensing objectives.
- 124.23 Mr Bateup began his final representation by stating that the premises needed to operate within the law before any thought could be given to extending the current hours. It was a sensitive premises in a sensitive area and the Cumulative Impact Policy needed to be given due consideration. He recognised there were no specific problems as yet, but comparisons could be drawn with Jennifer's Shop, which had a history of problems and violence.
- 124.24 Dr Thomas began her final submission and referred to paragraph 4.1 of the Licensing Policy, which stated that any application had to have regard to its location. She felt this premises was too close to residential homes and the noise emanating from the premises would cause significant disturbance if allowed to open later. She stated that due regard needed to be given to the history of the premises and the problems of the area and asked for the Panel to refuse the licence.
- 124.25 **RESOLVED** – that the application for variation of the premises licence is refused.

The Panel felt that the granting of the variation of the licence would undermine the licensing objectives of Prevention of Public Nuisance and Prevention of Crime and Disorder. The applicant has failed to demonstrate that the granting of this application would have no negative cumulative impact and would not add to the existing problems in the area.

125. WHITE HORSE, CAMELFORD STREET, BRIGHTON

- 125.1 The Panel considered a report of the Assistant Director of Public Safety regarding an application for review of a premise licence under the Licensing Act 2003 for The White Horse, Camelford Street, Brighton, BN2 1TQ.

Mr Grant from Punch Taverns, and Mr Thompson and Mr Aiano, joint lessees and managers of the premises, attended the hearing to speak in favour of the Premises Licence remaining unaltered and retained. Annie Sparks, Environmental Health Manager attended to speak as a responsible authority and Mr Middleton, Mr Lauchlan, Mrs Gordon, Mr Hansell, Mr Olympios, Mr Elliot and Mrs Dear attended the hearing to speak as interested parties.

125.2 The Senior Environmental Health Officer began his submission by stating the Premises Licence was being reviewed as representations had been received stating Prevention of Public Nuisance and Prevention of Crime and Disorder. He reminded the Panel that the options open to them were to modify the existing conditions on the licence; exclude a licensable activity from the licence; remove the Designated Premises Supervisor; suspend the licence for period not exceeding three months; revoke the licence; or do nothing.

He noted that the licence currently gave permission for regulated entertainment and live music. Strippers and themed nights had recently been advertised by the premises but there was no provision for dance on the licence. Noise Abatement Orders had been issued in November 2008 and February 2009 and a formal caution against playing any music had been given.

125.3 The Environmental Health Manager then began her representation and stated that complaints had been received about the premises since December 2007 and related to amplified music and voice disturbance from karaoke machines. Noise disturbance had also been experienced from residents living close to the back yard of the premises.

In October 2008 a petition had been received and the DPS had been made fully aware of all of the complaints. Noise diaries and tape recordings had been produced as evidence and as a result Noise Abatement Orders had been served. A statutory noise nuisance had been observed in the rear of the yard. In November 2008 a breach of the notice had been witnessed by Environmental Health Officers.

The DPS had accepted responsibility for the breach and was issued a formal caution. It was felt that a review of the licence was necessary to prevent further problems occurring at the premises and the Environmental Health Manager proposed the removal of all live and recorded music; no karaoke to take place in the premises at any time; no table and chairs to be placed in the rear yard at any time; no heaters to be placed in the rear yard at any time; no more than five people to be allowed into the rear yard at any time; the use of the rear yard to be prohibited after 23:00 hours. The Environmental Health Manager also recommended a condition to prohibit amplified voices. She stated she was concerned to see that an advert had been placed for stripper and themed nights at the premises, and had not been made aware of this until the Panel hearing.

125.4 Councillor Lepper asked what time the breaches at the establishment had occurred and the Environmental Health Manager replied that they had been around or after 23:00 and were clearly audible with the windows shut and would prevent sleep.

125.5 Councillor Lepper asked what time the premises was currently allowed Recorded Music until and the Environmental Health Manager replied that the music must not be audible after 23:00.

125.6 Councillor Marsh asked if agreement to the conditions proposed had been achieved with the applicant and the Environmental Health Manager confirmed that the applicant would be agreeable to all of the conditions.

125.7 The Chairman asked the interested parties if they had any questions of the statement of the Environmental Health Manager and Mr Middleton asked if any proposal had been offered to keep the front door closed except when in use as an egress/exit. The Environmental Health Manager confirmed that this could be a condition that the Panel wished to place on the licence, but no agreement to that effect had been reached with the Premises Licence Holder. The Premises Licence Holder confirmed they had no questions.

125.8 Mr Gordon then began his representation and stated that the number of representations made against the establishment was an indication of the scale of the problem. He stated that the premises was situated on a small residential street within a conservation area, and as such was not allowed to install double-glazing, but residents bedrooms largely faced out onto the street, which caused problems of disturbance.

Mr Gordon stated that there had been no previous problems with the premises but the new owners were aggressive when dealing with any complaints or issues raised by residents and the customers had been threatening and volatile to residents even during the day time. He stated that the residents were able to identify that problems were arising from the White Horse in particular.

125.9 Mr Andrews then began his representation and stated that he had lived in the area for sixteen years. He noted that most of that time had been enjoyable and peaceful but problems had started occurring in January 2008 and had continued until the Noise Abatement Order had been issued. Mr Andrews stated that last year had been extremely unpleasant for residents as a result of the complete failure of management of the premises. He felt there had been no engagement with the residents to resolve ongoing issues and the DPS had tried to antagonise by subjecting them to an extreme level of noise. There had been public nuisance issues including urination and vomit of customers onto residents' properties and fighting in the street.

Mr Andrews felt that the staff of the premises followed the lead of the DPS and were disrespectful to residents concerns. He cited an incident whereby a complaint had been made about the level of music had been turned up to purposefully antagonise residents. Customers of the premises were also aggressive to residents as they had been notified of the complaints by the DPS. Mr Andrews felt that the noise nuisance had restarted and asked the Panel to revoke the licence. If they were not able to revoke the licence, Mr Andrews stated that he supported the suggested conditions of the Environmental Health Manager but asked for a reduction in the licensed hours of the premises.

125.10 Mr Middleton began his representation by stating that he had made several complaints to the premises and had asked for the front door to be closed as the sound emanating from the establishment could be heard over his television. He felt his complaints had been ignored however and had been told that the door would remain open. Mr Middleton cited an incident where the song "Its Oh So Quiet" had been played extremely loudly after a complaint about the noise levels had been made, and he felt this had been done purposely to antagonise residents. Mr Middleton had at times felt intimidated and the customers and staff had been very hostile to residents.

He felt there was no indication that the premises management took complaints seriously or acted with sympathy.

- 125.11 Mr Lauchlan began his representation by stating that he had been aware that there was a licensed premises across the road when he had purchased the property, but there had not been any problems until last year. He felt that Brighton & Hove as a city was a tolerant place to live, but did not feel there was any toleration of the residents concerns by the premises management. He stated there were other licensed premises close by but they did not experience any problems with them.
- 125.12 Mrs Dear stated that she had been personally threatened by the licence holder to the extent that she had called the Police to intervene, and the level of intimidation by the premises had been extremely high.
- 125.13 Mr Elliott began his representation by stating that the noise disturbance from the back yard of the premises had been unbearable. The Noise Abatement Order had reduced the level of noise, but he noted that it was still winter and the back yard was unlikely to be used as frequently in this month as it would in summer. Mr Elliott was concerned that some of the conditions relating to the back yard would be difficult to enforce and requested that the Panel consider making this area out of bounds to customers to ensure that problems would not continue.
- 125.14 Mr Olympios began his representation by stating that the premises affected streets at the front and back of the premises. He stated that the rear of the premises was an enclosed back yard area where customers were currently permitted to smoke and this severely affected the premises that backed onto the yard in terms of noise and smell pollution.
- 125.15 Mr Hanson began his representation by stating that there had been no extractors installed in the back yard and so the smoke constantly affected the surrounding premises. He noted that the space was in use from the afternoon onwards and it was frequently used as another drinking area by customers.
- 125.15 The Chairman asked if the yard was enclosed and the Environmental Health Manager replied that it was surrounded by high buildings. She noted there was no background noise in this area to mitigate the noise created by customers using the yard and stated that sounds echoed because of this.
- 125.16 Councillor Marsh asked if there had been any issues or problems with the premises before the current owners took over, and Mrs Gordon replied on behalf of the residents that there had not.
- 125.17 Councillor Marsh was concerned about the accusations of harassment and bullying and asked if any of the other residents had called the police about the premises. Mr Lauchlan stated that he had and the Police had confirmed to him that they were familiar with the premises and the problems there.
- 125.18 Councillor Marsh asked if a modification of the hours of the licence would help to mitigate residents concerns and Mr Andrews recommended that the hours be reduced to Sunday – Thursday 10:00 to 23:00 and Friday to Saturday 10:00 to midnight.

125.19 The Chairman asked the Premises Licence Holders if they had any questions of the residents and they stated they did not.

125.20 Mr Grant then spoke on behalf of the Premises Licence Holders (PLHs) and stated that he did not feel there had been any one-to-one confrontations with residents over the problems at the premises, but accepted that all of the issues raised had occurred after the PLHs had taken over. He stated that the reason for the problems occurring was that the PLHs had felt the need to increase trade at the premises and abuses of the music licence had taken place, which were openly admitted as breaches by the PLHs. There had been voluntary changes to the style and running of the premises and as a result of this there had been no further problems in the last three months.

Mr Grant stated that no more amplified music was played at the premises and all audio equipment had been removed. There had been a meeting with Environmental Health Officers and a voluntary agreement to the conditions had occurred, with the exception that the PLHs felt there was no need to install secondary glazing at the residence.

Mr Grant stated that since the smoking ban, customers could only smoke outside the premises either on the street or in the courtyard at the back, but recognised the need to restrict this area, which was already being done by staff and CCTV would be implemented. He noted that all facilities in the yard had already been removed and the area would not be used as an extension of the premises to drink alcohol. Mr Grant confirmed there was a staff policy to regularly monitor the yard.

Staff training had been introduced and a rigid discipline structure as Mr Grant recognised that the PLHs had been wrong in how they had dealt with complaints in the past. He stated that the PLHs had recognised the error of their ways and were changing how the business was run. He stated that the opening hours had always been adhered to and now that music was not being played at the premises, there was no need to change the closing times. If necessary, Mr Grant suggested that a 01:00 closing time would be more appropriate. He assured the Panel that all conditions would be adhered to and he was willing to open up formal communications with residents in a pleasant and open manner.

Finally Mr Grant referred to the stripper and themed nights that had been advertised and confirmed that the stripper nights would not be going ahead, and any themed nights would not include music.

125.21 The Chairman asked about the separate entrance to the premises on St Margaret's Street and Mr Grant stated that this was a dedicated fire exit and that there was no access from the outside to the inside.

125.22 Councillor Marsh asked whether the PLHs would accept a condition to ensure that the front door was closed at all times except when in use, and would not be propped open. Mr Grant stated that the door had been left open for the purposes of air circulation but would accept a condition to keep it closed.

- 125.23 Councillor Marsh asked if the PLHs would accept a condition to restrict the opening hours on Fridays and Saturdays to 10:00 to 01:00 and Mr Grant confirmed that they would accept a condition that restricted the sale of alcohol to 10:00 to 01:00.
- 125.24 Councillor Marsh asked if any steps were being taken to improve relationships with the residents and Mr Grant stated that the PLHs were not aware that there was a problem in this regard. He stated that he was happy to open up communications with residents on any issues they had.
- 125.25 Councillor Lepper asked if the PLHs were aware that they had been causing significant problems for residents and Mr Grant agreed that there had been problems. He stated that it was due to ignorance of accepting the consequences of their actions that the PLHs were here today and he did not want to justify anything that had happened, but he guaranteed it would not happen again.
- 125.26 Councillor Lepper expressed concern over the recent advertisement in the papers and asked how the ambience of the premises and style was changing if they were still advertising stripper and themed nights. Mr Grant stated that this was only a marketing ploy to attract more people onto the premises.
- 125.27 Mr Thompson stated that he and Mr Aiano had taken over the premises and found business to be very poor. They had made attempts to improve it, but understood they had made mistakes but felt that in the last three months they had worked hard to improve the premises. They now employed SASSCO Security Systems Ltd to deal with any problems that occurred in a quick and effective way.
- Mr Thompson assured the Panel that they now had the right intentions and he offered an apology to the residents for the problems that had been caused. He assured residents that their concerns would be treated with respect and politeness and that they would continue to monitor operations at the premises closely.
- 125.28 Councillor Lepper remained concerned that given the premises had undertaken these activities to generate more profit it may lapse back into promoting inappropriate events at the premises as the need for profit would remain. Mr Grant admitted that the income streams for the premises were under pressure, but he assured the Panel there would be no further breaches of any licence conditions, and the premises would either succeed or fail within the terms of their licence.
- 125.29 The Chairman asked the responsible authority and the interested parties if they had any questions for the Licence Holder and premises management.
- 125.30 Mr Lauchlan asked why Mr Grant had not known about the recent advertisement placed by the premises. Mr Grant explained that he was representing the landlords of the premises, but they were not involved in the day to day running of the premises or any business decisions made by the management.
- 125.31 Mrs Gordon asked how the residents could feel confident the premises would now start to operate in a responsible manner given the attitude of the premises management in the past, and give that a letter had been sent to residents in January 2008 promising to maintain the peace and tranquillity of the street. Mr Grant accepted

this and stated that he could only ask for the residents to trust that the situation would continue to improve because there was evidence that things were now moving forwards.

- 125.32 Mr Olympios asked if drinks would be allowed in the courtyard and Mr Thompson stated that they would, but this would be strictly regulated and monitored to ensure that they did not stay out there.
- 125.33 Mr Olympios asked if there was facility to monitor noise levels outside and Mr Thompson assured him that this would also be closely monitored and if the noise became problem it would be stopped.
- 125.34 Mr Elliott asked if the premises management would accept a condition that did not allow drinks in the courtyard. Mr Aiano stated that it would be better for the premises to allow drinks outside, but to close the courtyard after a certain time.
- 125.35 The Senior Environmental Health Officer began his final submission and stated that the Panel needed to give consideration to all of the representations heard today and that any remedial action should be directed at the causes of the problems, for example removing a DPS if there were management problems at the premises. He stated that the options of suspension and revocation needed to be balanced with a need to promote business.
- 125.36 Mr Lauchlan spoke on behalf of the interested parties and stated that the residents had not experienced problems with this premises in the past, and wanted to get back to that situation. He felt that the Premises Licence Holder was largely unaware of the problems that were being experienced and questioned how voluntary the improvements had actually been given that they followed an enforcement notice.
- 125.37 Mr Grant began his final submission and stated that the terms offered by the Environmental Health Manager were acceptable and he confirmed that the premises would do everything in its power to abide by them.
- 125.38 **RESOLVED** – That the Panel decided to take the following action in respect of the review:
1. The removal of the performance of Live Music and Recorded Music as licensable activities on the licence.
 2. The modification of conditions so that the following will now apply to the licence:
 - i. No karaoke to take place in the premises at any time;
 - ii. No microphones shall be used at any time;
 - iii. The front door to be closed, except when used as access/egress, at all times;
 - iv. The bar gate into St Margaret's Street to be used as a fire exit only, and not as an alternative access/egress to the pub;
 - v. Sale of alcohol to be allowed until 01.00 on Friday and Saturday;
 - vi. No tables or chairs to be placed in the rear yard;
 - vii. No heaters to be placed in the rear yard;

- viii. A maximum of five people to be allowed to smoke in the rear yard at any one time;
- ix. No drinks to be taken into the rear yard area;

The panel felt the above action would satisfy the concerns raised and uphold the four licensing objectives, especially in terms of the prevention of public nuisance, but stressed that should there be any further problems there was the opportunity for a further review.

126. SAINSBURY'S SUPERMARKET, 147-148 WESTERN ROAD, BRIGHTON

- 126.1 The Panel considered a report of the Assistant Director of Public Safety regarding an application for a new premises licence under the Licensing Act 2003 for Sainsbury's Supermarket, 147-148 Western Road, Brighton, BN1 2DA.
- 126.2 A solicitor for the Premises Licence Holder and representatives of Sainsbury's Supermarket attended the hearing to speak in favour of the new application. Councillor Kitcat attended to hearing as Ward Councillor to speak on behalf of Mrs Paskins, a local resident.
- 126.3 The Senior Environmental Health Officer began his submission by stating that the application was for a retail premises to include the sale of alcohol on-site. A premises licence for this had been issued in 2007, but a significant extension and redesign of the premises to include 30% greater floor area meant that new plans and a new Premises Licence needed to be submitted for approval. Three letters of representation had been received referring to Public Nuisance and Crime and Disorder. The Senior Environmental Health Officer stated that the premises was in the Cumulative Impact Area where the onus was on the applicant to demonstrate there would be no negative cumulative impact on the granting of the licence.
- 126.4 The Chairman asked if the premises already had a licence and what the operating times were for this. The Senior Environmental Health Officer stated that it was for the same times as already granted, and the Solicitor for Sainsbury's stated that because the shop floor was increasing by around 30% this necessitated new plans to be drawn up and therefore a new licence required for these plans.
- 126.5 The Chairman asked if the interested party and the applicant had any questions of the Senior Environmental Health Officer and they stated they had none.
- 126.6 Councillor Kitcat began his representation by stating that he was objecting on behalf of three residents in the area. He stated that this was a significant change to the store and an increase in sales area for alcohol. He noted that the premises was in the Cumulative Impact Area and felt that the scale of the application was inappropriate.

Councillor Kitcat stated recent problems in the area, including a murder, and felt that increasing the supply of alcohol would contribute to the situation getting worse. There were already disturbances in the area due to inebriated people and the granting of this application would continue a negative trend. Councillor Kitcat also highlighted Public Safety issues and stated that the NHS was overwhelmed with admissions for

alcohol abuse, and this was a consideration the Panel should take into account. He urged the Panel to reject the application.

- 126.7 Councillor Marsh asked whether Sainsbury's could still sell alcohol if the new licence was refused. The Senior Environmental Health Officer stated that because the plans for the shop were changing, a new licence based on those plans was necessary.
- 126.8 Councillor Lepper asked whether Councillor Kitcat had received any complaints from residents about alcohol sales from Sainsbury's. Councillor Kitcat confirmed that the residents he spoke to felt the noise and disturbance they experienced had increased due to the opening of Sainsbury's.
- 126.9 Councillor Lepper asked why the residents Councillor Kitcat was representing felt that there would be an increased nuisance when the hours of opening were remaining the same. Councillor Kitcat explained that the residents felt that due to the increase in size, the shop would act as a beacon for those looking for late night alcohol.
- 126.10 The Solicitor for Sainsbury's asked Councillor Kitcat whether the recent murder in the area was in any way linked to Sainsbury's, and Councillor Kitcat confirmed that it was not.
- 126.11 The Solicitor for Sainsbury's asked Councillor Kitcat whether any buskers had been witnessed in operation outside of Sainsbury's, and Councillor Kitcat confirmed that he had not witnessed any.
- 126.12 The Solicitor for Sainsbury's asked Councillor Kitcat if he was aware that the hours of sale would remain the same for the new licence and Councillor Kitcat replied that he was.
- 126.13 The Solicitor for Sainsbury's began his representation by stating that a new application had been submitted because of recent store improvements and a substantial change to layout. There was only a 2% increase in alcohol sales envisaged, but the visibility for staff to monitor the area would be greatly increased.

The Solicitor noted that the application was in the Cumulative Impact Area, but this was something that the store could not change. He noted that the application had been sent to the Police Licensing Officer for approval before being submitted to the Licensing Authority and the Police had no objections to the new application as several conditions had been agreed including CCTV and a Challenge 21 policy which would ensure that the four licensing objectives were upheld.

The Solicitor to Sainsbury's felt that the applicant had done their best to take into account the Cumulative Impact Area and were disappointed that the application had come to a Panel hearing. He recognised the concerns of residents, but felt that Sainsbury's were not responsible for these, and the suggestion that the store would be open later than it's current licence was not true.

In the opinion of the Solicitor, the Cumulative Impact Area should not restrict positive improvements to premises that already had a licence in the area, and he did not feel this was the intention of the policy. He stated that Sainsbury's had offered

consultation with the residents but this had not been taken up. Finally, the Solicitor stated that this was a very minor overall change to the licence and he urged the panel to accept the application.

- 126.14 The Chairman asked whether any incidents had occurred at the store related to Crime and Disorder or Public Nuisance. The Solicitor for Sainsbury's confirmed that a test purchase operation had recently been carried out at the store which they had not failed and a refusals book was kept to demonstrate that staff were challenging and refusing customers where necessary.
- 126.15 Councillor Marsh asked what the increase would be for alcohol floor space under the new application and the Solicitor for Sainsbury's confirmed that it would be proportionately less than previously.
- 126.16 Councillor Lepper asked why the licence application was for 24 hours for the sale of alcohol when the store intended to close at 22:00. The Solicitor for Sainsbury's stated that this was for business flexibility and all Sainsbury's stores would take this approach, whether they intended to use the hours on the licence or not.
- 126.17 Councillor Kitcat asked if the pricing policy would change at the store and the Solicitor confirmed it would not.
- 126.18 Councillor Kitcat asked what would happen to the store if the licence was refused. The Solicitor replied that this would make the store economically unviable and it would have to close.
- 126.19 Councillor Kitcat asked the Solicitor to confirm that alcohol sales were given the greatest importance of all the produce sold at the store because it was sold in such high quantities. The Solicitor confirmed that alcohol sales were very important because the store was a convenience store which aimed to have all main items of grocery sales under one roof. If the store could not achieve this then it was felt that customers would go elsewhere.
- 126.20 The Senior Environmental Health Officer began his final submission and stated that any conditions placed on the licence needed to be clear and enforceable, and necessary to uphold the four licensing objectives and the Cumulative Impact Policy.
- 126.21 Councillor Kitcat began his final submission and stated that all the residents concerns were valid and needed to be considered by the Panel before they made their final decision.
- 126.22 The Solicitor to Sainsbury's stated that the hours on the licence had not changed with the new application and the Police had not stated an objection. The problems in the area could not be attributed to Sainsbury's and the Cumulative Impact policy should not be used as a mechanism to restrict development of businesses in the area that were already trading with a licence.

126.23 **RESOLVED** – that the application for a new Premises Licence is granted with the conditions as agreed with Sussex Police.

The meeting concluded at 3.10pm

Signed

Chairman

Dated this

day of