

## **5. LICENSING OF INSULIN DEPENDENT DRIVERS**

REPORT OF: HEAD OF HOUSING, ENVIRONMENTAL HEALTH AND BUILDING CONTROL  
Contact Officer: Alec Lee, Taxi and Private Hire Licensing Officer  
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Wards Affected: All  
Key Decision No

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### **Purpose of Report**

- 1.0** For Members of the Licensing Committee to consider whether Mid Sussex District Council should licence insulin dependent diabetics to drive licensed Hackney Carriages and Private Hire Vehicles.

### **Summary**

- 2.0** This report highlights the amendments to the Driver and Vehicle Licensing Agency (DVLA) Medical Standards of Fitness to Drive in relation to Diabetes Mellitus and the best practice guidance published by The Department of Transport and The Secretary of State's Honorary Medical Advisory Panel.

### **Recommendations**

- 3.0** The Committee is recommended to consider this report and to determine that
- (i) The Council should allow drivers with insulin treated diabetes to hold a hackney carriage or private hire driver's licence provided they can meet the criteria contained within Appendix 1 and can otherwise satisfy all the licensing requirements set by the council.
  - (ii) The procedure in Appendix 1 for licensing insulin dependent diabetics as hackney carriage and or private hire drivers is recommended to the Portfolio Holder for Health and Community to consider including it in the Hackney Carriage and Private Hire Licensing Policy before it is approved by Council in July 2012.

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### **Background**

#### **4.0 Power to Licence Drivers**

Section 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 gives local authorities the power to grant licences to drive a hackney carriage. Section 51 provides similar powers for the licensing of private hire vehicle drivers.

- 4.1** Before a Local Authority grants a Driver's Licence it must be satisfied that the applicant is a fit and proper person and that they have held a full driver's licence for a minimum period of one year. All drivers must be medically fit to carry out their role. The responsibility for determining the medical fitness standard is a matter for each Licensing Authority.

- 4.2** For some considerable time Mid Sussex District Council has adopted and applied the Group 2 Medical Standard for all hackney carriage and private hire drivers which is the standard applicable to the drivers of Heavy Goods Vehicles and large Passenger Carrying Vehicles (Buses and Coaches). This standard is higher than those for private motorists because professional vocational drivers spend substantially longer at the wheel, so the risk of sudden illness occurring at the wheel is greater and the risk of an accident is greater.

### **Current policy applied to a driver with Diabetes**

- 5.1** Currently drivers who manage their diabetes by either diet or tablet can generally satisfy the Group 2 standard and have been licensed by this authority as hackney carriage or private hire drivers. However, if they develop a relevant disability such that it would affect their driving, their licence would be revoked e.g. a diabetic eye problem affecting visual acuity or visual fields.
- 5.2** Existing drivers who become insulin dependent to control their diabetes could not, until recently, meet the Group 2 Standard and would not be licensed as a hackney carriage or private hire driver.
- 5.3** On 15<sup>th</sup> November 2011 the DVLA, as the result of a European Union Directive, removed the ban for people on insulin from driving Group 2 vehicles (large goods vehicles and passenger carrying vehicles). Insulin dependent drivers can now undergo individual medical assessment to assess their fitness to drive these vehicles.
- 5.4** All Member States must comply with this Directive within one year. It provides criteria for those on medication as well as covering those who have had no severe hypoglycaemic events in the previous 12 months. It states that licences should be issued subject to the opinion of a competent medical authority and should be subject to regular medical review, undertaken at intervals of not more than three years.
- 5.5** The Directive is welcomed and supported by Diabetes UK.
- 5.6** Transport for London who licence in excess of 48,000 drivers annually licence insulin dependent drivers subject to certain criteria, and have done so since January 2006.

### **DVLA Guidance**

- 6.0** The criteria by DVLA Medical Standards of "Fitness to Drive" and the best practice guidance published by the Department of Transport and The Secretary of State's Honorary Medical Advisory Panel in relation to Diabetes Mellitus is as follows:

"The criteria to be satisfied is that the applicant:

- (a) Has had no episode of hypoglycaemia requiring the assistance of another person in the preceding 12 months.
- (b) Has full awareness of hypoglycaemia.
- (c) Regularly monitors blood glucose at least twice daily and at times relevant to driving using a glucose meter with a memory function to measure and record blood glucose levels. At the annual examination by an independent

Consultant Diabetologist, 3 months of blood glucose readings must be available.

- (d) Must demonstrate an understanding of the risks of hypoglycaemia.
- (e) There are no other debarring complications of diabetes such as visual field defect.

If the above medical standard is met then a 1 year DVLA licence will be issued.

### **Policy Context**

- 7.0** The Local Government (Miscellaneous Provisions) Act 1976 as amended places a duty on the Council to carry out its Licensing functions in respect of hackney carriage and private hire vehicles.
- 7.1** The Council has adopted an Equality and Diversity Scheme to promote equality between, amongst others, those who do and do not have a disability.

### **Financial Implications**

- 8.0** None

### **Risk Management Implications**

- 9.0** The existing blanket approach to refuse to licence an insulin dependent driver solely on the grounds that they are insulin dependent could be considered unlawful and open to challenge. Introducing a procedure with set criteria to establish an insulin dependent driver's fitness to drive would allow the Council to still maintain public safety.

### **Equality and Customer Service Implications**

- 10.0** The removal of a blanket policy will enable potentially disabled drivers who are insulin dependent to apply for and hold a licence. Each case will need to meet the set criteria set out in appendix 1.

### **LICENSING INSULIN DEPENDENT DIABETICS AS HACKNEY CARRIAGE AND/OR PRIVATE HIRE DRIVERS**

#### **New Applications for a licence:**

All new applications involving individuals with insulin treated diabetes will need to meet the following criteria:

1. He/she must meet the medical requirements which would allow a Hackney Carriage or Private Hire driver's licence to be issued. In this regard the applicant will need to provide a medical report at the applicant's expense from an independent Consultant Diabetologist confirming:
  - That no episode of hypoglycaemia requiring the assistance of another person has occurred in the preceding 12 months.
  - That he/she has a full awareness of hypoglycaemia and can demonstrate an understanding of the risks associated with hypoglycaemia.
  - That he/she regularly monitors blood glucose at least twice daily and at times relevant to driving using a glucose meter with a memory function to measure and record blood glucose levels. At the annual examination by an independent Consultant Diabetologist, 3 months of blood glucose readings must be available.
  - That he/she has no other debarring complications of diabetes such as a visual field defect.
2. The applicant must submit a signed declaration that:
  - He/She will comply with the directions for treatment given to him / her by the doctor supervising that treatment.
  - Immediately report to the Licensing Authority, in writing, any change in diabetic condition, and provide to the Licensing Authority, as and when necessary, evidence that blood glucose monitoring is being undertaken at least twice daily and at times relevant to driving a licensed Hackney Carriage or Private Hire Vehicle.

Any licence issued will be valid for a period of one year after which a new medical report will be required.

#### **Existing Licensed Drivers**

Where an existing Hackney Carriage or Private Hire Driver requires insulin to control their diabetes their licence will be suspended for a minimum period of three months to enable a Consultant Diabetologist sufficient time to assess that the applicant is safely managing the prescribed treatment.

1. After a suitable period of time determined by the Consultant Diabetologist the applicant must satisfy the conditions set out above for new drivers.
2. The applicant will also be required to submit a signed declaration that:
  - He / She will comply with the directions for treatment given to him / her by the doctor supervising that treatment.

- Immediately report to the Licensing Authority, in writing any change in diabetic condition, and provide to the Licensing Authority, as and when necessary, evidence that blood glucose monitoring is being undertaken at least twice daily and at times relevant to driving a licensed Hackney Carriage or Private Hire Vehicle.

Any licence issued will be valid for a period of one year after which a new medical report will be required.

## 6. LICENSING SUB-COMMITTEE A 2012/13

REPORT OF: Tom Clark, Solicitor to the Council  
Email: tom.clark@midsussex.gov.uk Tel: 01444 477459  
Wards Affected: All  
Key Decision Yes/No

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### Purpose Of Report

1. To establish Licensing Sub-Committee A for 2012/13 to deal with taxi licensing enforcement matters.

### Summary

2. To establish Licensing Sub-Committee A for 2012/13.

### Recommendations

3. **To establish Licensing Sub Committee A to be composed of five members being four Conservatives and 1 Liberal Democrat in accordance with the requirements for political balance.**
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### Background

4. Under the Licensing Act 2003 and also under the Gambling Act 2005 the Council is required to deal with applications under those Acts by means of sub committees of three members which we appoint for each meeting.
5. In relation to taxi licensing enforcement matters the Council has dealt with these matters through a Licensing Sub Committee A composed of five members in accordance with political balance.
6. This system has worked well and the Licensing Committee is recommended to continue with this approach in 2012/13.

### Financial Implications

7. There are none arising from this report.

### Legal Implications

8. The Licensing Committee can establish such sub committees, as it feels appropriate. In connection with the Licensing Act 2003 and the Gambling Act 2005 it is required to deal with both matters through a sub committee of three members only. In relation to taxi enforcement licensing it can establish a committee of the size it feels appropriate.

### Background Papers

9. None.

**Minutes of a Meeting of the Mid Sussex District Council Liquor Licensing Panel held on 27<sup>th</sup> March 2012 from 10.00 a.m. to 11.40 a.m.**

**Present:** Councillors: Chris Hersey (Chairman)  
Peter Reed  
Robert Salisbury

**Officers in attendance:** Tom Clark, Solicitor to the Council  
Paul Thornton, Senior Licensing Officer and  
Sally Blades, Committee Co-Ordinator (PA to the Chairman of the Council)

**Also in attendance:** David Crank, The Applicant's Legal Representative  
Nicky Mahson, The Applicant's Area Manager  
Responsible Authority: Phil King, Sussex Police Licensing Officer  
Interested Parties:  
Mr. Bill Hatton on behalf of Hassocks Parish Council  
Mrs. Sue Hatton, Ward Member for Hassocks

**LS.13 SUBSTITUTES AT MEETINGS OF COMMITTEE – COUNCIL PROCEDURE RULE 4**

None.

**LS.14 APOLOGIES FOR ABSENCE**

None.

**LS.15 DECLARATIONS OF INTEREST**

None.

**LS.16 APPLICATION TO GRANT A PREMISES LICENCE – MARTINS, 44 KEYMER ROAD, HASOCKS, BN6 8AB**

Paul Thornton, Senior Licensing Officer introduced the report and outlined the application before Members. He informed the Panel that the premises are currently, a convenience store selling groceries and newspapers as well as having a Post Office counter. When the original application for a licence was submitted the hours were from 6.00 a.m. until 11 p.m., but, following representations from neighbours this has been amended from 6.00 a.m. to 8.00 p.m. Sussex Police had agreed a number of conditions with the applicant and he confirmed that there are no planning restrictions.

Overall, six representations had been received, of these, three were rejected as they did not live near the premises and one objection had been withdrawn following the change in closing time. He explained that the objections from the Ward Member and Hassocks Parish Council related to concerns regarding the number of outlets already selling alcohol in the area, and the danger to children on their way to school. He added that another issue raised related to alcohol and anti-social behaviour in Adastra Park.

### Representations from Interested Parties

Bill Hatton, on behalf of Hassocks Parish Council, expressed his grave concerns with regard to this application. He referred to the Council's Liquor Licensing Policy, especially paragraphs 1.8 and 2.4 and referred to the four licensing objectives. He referred to the current emphasis on localism and did not believe that licensing should affect local life. He could not understand why the store needed to sell alcohol from 6.00 a.m. He referred to crime and disorder and did not believe that the number of outlets being allowed to sell alcohol was irrelevant to the Liquor Licensing policy.

He referred to anti-social behaviour at Adastra Park and Hassocks generally. He referred to the illegal drinking of alcohol in the park and the damage caused to playground equipment and flowers in the area.

He added that there are three schools in Hassocks and the Parish Council did not want to encourage more anti-social behaviour. He explained that the store is small and cramped and the mixture of children and alcohol should not be encouraged. He considered that the sale of alcohol is detrimental to the Liquor Licensing policy.

### Questions from Members of the Panel

One Member asked why the Interested Party thought that alcohol would be drunk immediately rather than consumed later. The Interested Party replied that the exception proves the rule.

Another Member added that there are no reported issues with the other premises in the area that sell alcohol, and there is no evidence that alcohol had been purchased by children.

The other Member of the Panel questioned whether the information relating to anti-social behaviour was passed to the Community Support Officer and Sussex Police.

The Senior Licensing Officer then responded to the issues raised with regard to the Liquor Licensing Policy, and he clarified that other premises in the area are not a matter for consideration by the Licensing Committee. He referred to page 6 of the Policy, namely the accumulative area impact, and said that there are very few of these areas in the whole of the Country, the nearest being Brighton. He confirmed that Sussex Police have no areas of concern within Mid Sussex.

The Solicitor to the Council reiterated that the Panel cannot take into account any other premises in Hassocks when considering this application.

### Representation by an Interested Party

Mrs. Sue Hatton, local Ward Member referred to the Licensing Policy, speaking on behalf of the residents of Hassocks. She questioned the need to sell alcohol so early in the day and supported the Parish Council's concerns.

She added that, if this application is agreed, other applications will follow, and that consideration should be given to reviewing the Licensing Policy. She asked the Panel to consider the application very carefully as the Council is the responsible authority for both towns and villages.



### Questions from Members of the Panel

Councillor Salisbury referred to one of the Council's objectives; namely protecting children from harm and he asked by the morning should be any more difficult than the afternoon. The Interested Party responded that in the morning is when the children converge on the area.

In response to a question from a member of the Panel, Sussex Police confirmed that each application is judged on its own merits. He also informed the Panel of local statistics relating to anti-social behaviour in the area.

### Submission by the Applicant's Representative

Mr. Crank outlined the history of the premises and clarified that the hours of opening would be from 7.00 a.m. until 8.00 p.m. on a Sunday and from 6.00 a.m. to 8.00 p.m. Monday to Saturday.

He explained that he had sought to discuss the application with the relevant parties and had reworded conditions in consultation with Sussex Police.

He referred to the concern expressed in relation to protection of children from harm and explained procedures in place to deal with the problem of the purchase of alcohol by underage children.

He explained that his Company operate 1300 local stores and they operate a Challenge 25 policy. There is digital CCTV in operation which focusses on areas throughout the store and explained the procedure for the identification of people purchasing alcohol.

He added that staff are trained as part of their induction, with refresher training after three months. He explained the procedure for test purchasing, adding that the Company take every procedure very carefully. He reiterated that the conditions had been agreed with Sussex Police regarding the purchase of alcohol. He then referred to anti-social behaviour and explained that the Company try to have the correct procedures in place to meet their objectives.

Mr. Crank then referred to the store's opening hours and said that he did not anticipate a great deal of purchase of alcohol, he added that his Company always try to be sensitive when new premises open. The store will be upgraded and entrance and exit will be widened and the Post Office counter will support the premises. He confirmed that Sussex Police have had the opportunity to look at the application.

### Questions from Members of the Panel

A Member asked whether the Company have a test and purchase contract. The Applicant's Representative explained that a quarterly test is undertaken on new premises.

In response to a question from a Member as to how the Company will meet its licensing objectives, the Applicant's representative explained what is involved in staffing training and added that if these are not followed, disciplinary action is then taken.

In response to a question from a Member, the Applicant's representative explained how the conditions would be followed. CCTV will always be in use and the Police will have access at all times. The store will operate a Challenge 25 policy and staff will wear Challenge 25 badges. Either a Supervisor or Manager will be on duty at all times as well as Mystery Shoppers visiting the store.

He also explained the problems which would be experienced if the sale of liquor occurred later than the opening hours of the operation of the premises.

In response to a question from a Member, the Applicant's Representative explained that one or two fully trained members of staff would operate the store in terms of the Licensing Act. He confirmed that all staff are trained to the same level.

#### Response from the Interested Parties

The Ward Member said that the village wants to work with the Company, but considered that the store should open later in the morning. The Licensing Officer confirmed that all days are treated the same in relation to the sale of liquor, there are no restrictions on a Sunday.

#### Final Submission from the Applicant's Representative

The Applicant's Representative said that his Company always tried to work with the local authority and it is in their own interests to ensure that the store fits in with the local community. He was sure there would not be a problem when the application is put into practice. Fears are greater than reality, and he asked the Panel to grant the application.

#### Final Submission by an Interested Party

Mr. Hatton, on behalf of the Parish Council referred to the extended hours and said that it does not always work perfectly and that the licence should not be granted. 6.00 a.m. should be put back until 9.00 or 10.00 a.m., particularly on Sundays.

#### **The meeting adjourned at 11.00 a.m. and reconvened at 11.25 a.m. for the Panel to deliver their decision**

The Solicitor to the Council advised the meeting as to the legal advice he had given to the Members of the Panel.

The Chairman informed the meeting that, taking into account the four licensing objectives the Panel do not believe there is sustainable evidence to object to the application for a liquor licence for Martins Newsagents, Hassocks from 6.00 a.m. to 8.00 p.m. Monday to Saturday and 7.00 a.m. to 8.p.m. on Sundays.

The application, therefore, is granted subject to the conditions listed below, as slightly amended to require the digital CCTV to be installed and operational prior to the use of the licence.

He added that he would like to remind all parties of the right to request a review of the licence should problems within the meaning of the licensing objectives arise. There is a right of appeal within 21 days of the receipt of the full decision

letter which will be sent to all parties within five working days of today, the day of the meeting.

## **RESOLVED**

- (1) Digital CCTV and appropriate recording equipment to be installed and operational prior to the use of the licence, operated and maintained throughout the premises internally to cover all public areas with sufficient numbers of cameras as agreed with Sussex Police. CCTV footage will be stored for a minimum of 28 days, and the management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is requested for the prevention and detection of suspected or alleged crime. The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy and will be changed when British Summer Time starts and ends;
- (2) Challenge 25 will be used for all sales of alcohol products;
- (3) A written and/or electronic refusal register will be kept and maintained on the premises and is to be checked and signed weekly by a member of the store's management;
- (4) all staff involved in the sales of alcohol will be trained prior to being employed and then further training on a three monthly basis on their responsibilities under the Licensing Act 2003; and
- (5) high value alcoholic products such as champagne and spirits will only be displayed behind the sales counter.

The meeting closed at 11.40 a.m.

Chairman.

**Minutes of a Meeting of the Mid Sussex District Council Liquor  
Licensing Panel held on Wednesday 18th April 2012  
from 10.00 a.m. to 3.20 p.m.**

**Present:** Councillors: Morning Session  
Bruce Forbes  
Chris Hersey (Chairman)  
Peter Reed

Afternoon Session  
Bruce Forbes  
Ginny Heard  
Peter Reed (Chairman)

Officers in attendance: Franca Currall, Assistant Solicitor to the Council  
Paul Thornton, Senior Licensing Officer  
Joseph Pearson, Member Services Officer (a.m.)  
Danny Kington, Senior Member Services Officer (a.m.)  
Sally Blades, Committee Co-Ordinator (PA to the  
Chairman of the Council) (p.m.)

Also in attendance for: Ockenden Manor  
Peter Rainier, the Applicant's Legal Representative  
Pontus Carmenter, Director

The Koorana Centre, Ardingly  
Gabrielle Hall, the Applicant  
Ronald Evans and Rosemary Dower, Interested Parties

The Co-Operative, High Street, Cuckfield  
Chris Woods, the Applicant  
Richard Arnett, the Applicant's Representative  
2 Risk Managers from the Company  
Mrs. Guest, Interested Party

**LS.17 SUBSTITUTES AT MEETINGS OF COMMITTEES ETC. - PROCEDURE RULE 4**

None.

**LS.18 APOLOGIES FOR ABSENCE**

None.

**LS.19 DECLARATIONS OF INTEREST**

None.

## **LS.20 APPLICATION TO GRANT A PREMISES LICENCE – OCKENDEN MANOR HOTEL AND SPA, OCKENDEN LANE, CUCKFIELD, WEST SUSSEX, RH17 5TD**

Paul Thornton, Senior Licensing Officer introduced the report and outlined the application before Members. He informed the Panel that the 28-bed hotel on the site was currently licensed but the applicant was seeking to obtain a premises license to sell alcohol at the newly built Spa. The applicant had taken the opportunity to review the current license at the hotel and was seeking increased hours as well.

Sussex Police had registered no objection to the application. Mid Sussex District Council's Environmental Health team had agreed a number of conditions in addition to existing planning conditions relating to the spa regarding live outdoor music.

He explained that a representation had been received from a neighbouring resident objecting to the application.

The Chairman reminded those present that the Panel could only consider licensing issues. An interested party was unable to attend the meeting but the Panel had noted his objections and they would be taken into consideration.

### Representation by Applicant's Representative

Mr Rainier outlined the details of the application and explained that the applicant was responding to demand for facilities in order to remain competitive with other hotels locally and within the South East region

He referred to the concern expressed by the objecting neighbour and explained how the applicant had consulted with residents. He highlighted that the concern raised regarding the use of fireworks was not a licensing matter but the hotel would rarely have events where fireworks were used and it was the hotels own practice to finish such displays by 21:30 hours and to notify all neighbouring residents in advance by post. The management are aware that the site sits within a conservation area and adjacent to the Area of Outstanding Natural Beauty and does all it can to act in a sensitive manner.

The existing license has been adhered to with no complaints about how the Hotel is managed, with senior staff providing training to the workforce. In addition to the need to consider the impact on neighbouring residents, it is in the Hotel's interest that the license is adhered to and that overnight guests are not disturbed by other activities at the Hotel

He said that any live music performed outdoors would be limited to acoustic performance only between 12:00 hours and 20:30 hours.

### Questions from Members of the Panel

One Member asked the applicant's representative to clarify that live music was restricted to the hotel and did not include the spa and Mr Rainier confirmed that was the case.

Another Member asked about whether doors and windows were kept closed when live music was performed indoors. Mr Carminger said that this usually happens already and live music is generally only permitted for private functions.

### Final Submission from the Applicant's Representative

Mr Rainier thanked the Panel for their time and suggested that if the Panel wished to specify a suitable time for any firework displays to finish then 22:00 hours would be suitable to allow for the later hours of darkness during summer months.

**The meeting adjourned at 10:20 a.m.  
and reconvened at 10:38 a.m. for the Panel to deliver their decision**

The Assistant Solicitor to the Council advised the meeting as to the legal advice she had given to the Members of the Panel. She advised that fireworks were not a licensable activity but that the Chairman would make an additional statement regarding those concerns.

The Chairman informed the meeting that, taking into account the four licensing objectives the Panel do not believe there is sustainable evidence to object to the application for a Premises Licence for Ockenden Manor Hotel & Spa, Cuckfield.

The application, therefore, is granted subject to the conditions listed below.

### **RESOLVED**

- (1) live outdoor music is only to be performed during the following times:  
  
12:00 hours to 20:30 hours for a maximum duration of 2 hours during this period;
- (2) no amplification of live outdoor music is permitted;
- (3) no more than four performers of live outdoor music are permitted at any one time; and
- (4) whilst any regulated entertainment takes place inside the premises all windows and doors shall remain closed.

He added that he would like to remind all parties of the right to request a review of the license should problems within the meaning of the licensing objectives arise. There is a right of appeal to the Magistrates Court within 21 days of receipt of the full decision letter which will be sent to all parties within 5 working days of today, the day of the meeting.

The Panel noted the applicants undertaking to restrict fireworks displays to finishing between 9:30 p.m. and 10:00 p.m. and would look favourably on that practice being maintained.

**The meeting adjourned at 10.40 a.m.  
and re-convened at 11.30 a.m. to hear the next item**

### **LS.21 APPLICATION TO GRANT A PREMISES LICENCE - THE KOORANA CENTRE, SAYSO HALL, STREET LANE, ARDINGLY, WEST SUSSEX, RH17 6UB**

Paul Thornton, Senior Licensing Officer introduced the report and outlined the

application before Members. He informed the Panel that the premises was a former Methodist Church that had closed, been refurbished and undergone a change of use to a hall. A rear class room at the premises was also in use as a Montessori nursery. The Applicant had stated what she intended to do with the premises and had withdrawn parts of her application relating to sports and late night usage. There were no statutory objections and Mid Sussex District Council's Environmental Protection team had agreed conditions with the Applicant that live music would end by 10:30p.m with residents notified of any late night activity beforehand. There were no planning restrictions on the hall itself.

Overall, five representations had been received, of which one was rejected as the representations were not relevant for the purpose of the Licensing Act 2003. He explained that all four representations expressed concern about noise breakout from the premises and the lack of car parking. He said that the latter was a planning issue, was not relevant for the purposes of the Licensing Act 2003 and should be disregarded by the Panel. He reminded the Panel that if parking was causing a public nuisance there was legislation to deal with it.

The Chairman of the Liquor Licensing Panel invited the Applicant to explain her full operating requirements for the facility.

#### Submission by the Applicant

Gabrielle Hall, the Applicant explained that the Centre would be used as an educational facility and that she would like some additional use, for example occasional charitable events and drama club performances, intended to enhance the centre's educational provision. She said she was not looking to extend to concerts and other performances in order to generate money. She added that with regard to licensed hours she would like to have as much flexibility as possible and confirmed that she did not anticipate any events occurring more than once a month as she could not organise more than a couple of events in a month anyway.

The Applicant confirmed that the Centre was for spiritual development and would not utilise live music.

#### Representations from Interested Parties

Ronald Evans, a near neighbour explained that he lived in a small, private road adjacent to the Centre, that he welcomed the recent refurbishment of the premises and had no objection to its other activities. He expressed serious concern about noise breakout in the evenings and requested that the Council undertake a decibel test. He said that even with a cut-off time of 10:30p.m, the dismantling of equipment, cleaning away and locking up the premises would create noise nuisance beyond midnight.

Rosemary Dower, another near neighbour said that the premises had never been a hall but a church, adding that it was already being advertised for events hire. She explained that her property is a timber-framed cottage that stands nine yards from the premises. She expressed serious concern about noise breakout from the premises, despite the fitting of double glazing. She said she would have to endure late night activity around her home as people left the Centre and it was locked up. She said that the previous Saturday noise nuisance from one such event on the premises had gone on beyond

midnight. She added that smokers using the Centre sit on a low wall immediately beneath her bedroom window. She added that her four hundred year old property stands two feet below street level and due to its timber construction picks up vibration from the noise generated by the Centre. She questioned its suitability for late night noise and activity.

#### Questions from Members of the Panel

Responding to a question from a Member, Mrs Dower said that the Centre is open every day of the week and that even one evening event per month on a Friday/Saturday only was still unacceptable.

In response to another Member's question, the Senior Licensing Officer confirmed that a discotheque would be classed as recorded music and not a live event.

The Applicant also confirmed that she could not cover late evening events on more than one night a month and that she wanted to keep her options open but acknowledged the concerns that this had raised amongst the interested parties, adding that she was seeking to enhance the life of the village.

In response to a Member's question the Applicant confirmed that the agreed conditions were for one live/recorded music event on the premises a month, adding that she wanted to raise funds for charity through the performance of live music and had undertaken her own noise tests. She reported that these had shown that music audible outside the premises was at a volume untenable to anyone inside. She added that amplifying equipment was often not necessary as the acoustics were so good. She confirmed there was no intention to have loud music every night and she had already refused requests to hold private parties on the premises.

In response to a Member's question about smokers, the Applicant confirmed there was a garden space available at the rear of the Centre adjacent to the garden of the former Manse, the residents of which had not objected to her application.

Responding to a question from the Chairman of the Panel the Applicant said that the Koorana Centre focussed on activities around health and wellbeing and was unlikely to include many smokers. She added that she would not be encouraging smoking and that persons applying to use the premises would be personally vetted by the Applicant and asked to provide full details of their intended activities.

In response to another Member's question the Senior Licensing Officer confirmed that day-to-day activities on the premises were not subject to permission from the Panel. The only issue was with the live events and the Applicant had already agreed upon a set of conditions with the Council's Environmental Protection team.

Responding to a Member's question about recorded music seven days a week, the Applicant confirmed this was being sought to facilitate yoga and dance classes and was not part of the agreed conditions on her application. She confirmed that she did not want discotheques on the premises.

Responding to the Chairman of the Panel's question about what might happen in the longer term, the Applicant said that the request to play recorded music could be



withdrawn from her application. The Senior Licensing Officer confirmed that film shows were a separate issue elsewhere within the application and that the use of Temporary Event Notices could cover the charity events, although the number of Notices for a single premises were limited to twelve per year.

Pending clarification of the conditions agreed with the Applicant on 28<sup>th</sup> March 2012, **the Chairman of the Panel adjourned the meeting at 12.10p.m.**

**The Panel re-convened at 1.10p.m.**

The Chairman of the Panel confirmed the revised schedule of timings agreed with the Applicant for the provision of live/recorded music events and invited comments from the Interested Parties.

Both Interested Parties said that noise breakout from live/recorded music on the premises before 2:30p.m had never been an issue but that the limit of 11:00p.m on Friday or Saturday nights once a month remained unchanged and did not address their serious concerns about noise nuisance continuing beyond midnight as vehicles were loaded and people left the premises.

The Assistant Solicitor to the Council clarified that subsequent to the original application the Applicant had agreed to a time limit of 10:30p.m.

Final Submission from Applicant

The Applicant said that she had already agreed to the conditions set out by the Council's Environmental Protection team and that she understood she could only hold one live/recorded music event on a Friday or Saturday night, once a month and that this event must be concluded by 10:30p.m.

Final Submission by an Interested Party

Mrs Dower said that 10:30p.m was still too late for any live/recorded music event on the premises but that a conclusion by 10:00p.m would be acceptable. She confirmed she had no objection to any of the other requested activities on the premises and re-iterated her serious concerns regarding noise breakout from the premises.

**The meeting adjourned at 1.30p.m.  
and reconvened at 1.48p.m. for the Panel to deliver their decision**

The Assistant Solicitor to the Council advised the meeting as to the legal advice she had given the Members of the Panel.

The Chairman of the Panel informed the meeting that taking into account the four licensing objectives and the Operating Schedule which the applicant had amended here at today's hearing the Panel did not believe there was sustainable evidence to object to the application for a Premises Licence for the Koorana Centre, Ardingly. The application was therefore granted, subject to the conditions listed below.

He reminded all parties of the right to request a review of the licence should problems within the meaning of the licensing objectives arise. There is a right of appeal within 21

days of the receipt of the full decision letter which will be sent to all parties within five working days of today, the day of the meeting.

**The Panel adjourned at 1.50 p.m.  
and reconvened at 2.30 p.m. to deliver their decision**

## **RESOLVED**

- (1) Whenever live or recorded music is taking place on the premises all doors and windows are to be kept closed;
- (2) Only one live or recorded music event to be held each calendar month;
- (3) Live or recorded music events will only be held on a Friday or Saturday with only one event taking place over any one weekend;
- (4) Live or recorded music events shall end at 22:30hrs on a Friday or Saturday;
- (5) The licence holder shall be present during the live or recorded music events to ensure compliance with the conditions;
- (6) Residents adjacent to the building shall be informed when a live music event is to take place and will be given a contact telephone number for them to ring in the event of a noise complaint; and
- (7) Notices to be displayed on the exit doors requesting patrons to leave the premises quietly.

**The Panel reconvened at 2.30 p.m. to consider the next item**

### **LS22. APPLICATION TO GRANT A VARIATION OF A PREMISES LICENCE – CO-OPERATIVE, HIGH STREET, CUCKFIELD**

Paul Thornton, Senior Licensing Officer introduced the report and outlined the application before Members. He informed the Panel that the premises is a small supermarket, which already has a Premises Licence for the sale of alcohol and this application seeks variation to those hours.

Mr. Thornton informed the meeting that five representations had been received from Interested Parties. Three of these had been rejected because they are invalid, leaving the other two valid. He confirmed that the Planning Authority had no objections and that a number of conditions had been agreed with Sussex Police.

#### Representation from Interested Party

The Interested Party outlined the basis of her objection to the application. She said that she already suffered noise 24 hours a day, and it was likely that this problem would increase with longer opening hours. The Applicant clarified the hours of opening of this application and added that there are no planning restrictions on the premises.

#### Representation from the Applicant's Representative

The Applicant's Representative explained that the Company have 3,800 stores nationwide with a number of local convenience stores which have the ability to buy alcohol from. He added that his company are responsible retailers who employ Risk Managers. He outlined the training which all staff have to undergo and added that each store has three personal licence holders.

He added that there are no objections from the Police and that a number of conditions had been previously agreed with them. He confirmed that there are no objections from Environmental Health. He explained that people need to be able to shop when they want to. The premises is currently licenced until 11.00 p.m. and that alcohol can be sold at the premises from 8.00 a.m. at this moment in time.

He outlined the proposed hours of opening of the premises and reminded Members that objections have to relate to the four licensing objectives.

#### Questions from Members of the Panel

A Member asked whether there has been a history of complaints. The Applicant's Representative confirmed that these had related to the chilling system. He added that no representations had been received from the Police or the other resident who had objected to the application.

The Applicant's representative, in response to a question from a Member, explained how members of staff are trained.

Another Member asked if the Applicant's representative had any evidence as to why the hours of opening needed to be increased. The Applicant's Representative confirmed that it was down to needs. There are different working hours and he confirmed that if there is no demand then the hours of trading would revert to what they are now.

#### Final Submission by the Interested Party

Mrs. Guest explained that she could provide evidence that a problem does already exist.

#### **The Panel adjourned their meeting at 2.45 p.m. and reconvened at 3.15 to deliver their decision**

The Assistant Solicitor to the Council advised the meeting as to the legal advice she had given the Members of the Panel.

The Chairman informed the meeting that, taking into account the four licensing objectives the Panel does not believe there is sustainable evidence to object to the application for a variation to the Premises Licence for the Co-operative High Street Cuckfield and the application is granted with the following agreed conditions:

#### Protection of children from harm

1. The premises will operate a minimum Challenge 25 policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age.

2. Suitable signage advertising the Challenge 25 policy will be displayed in prominent locations in the premises.
3. The only forms of ID that will be acceptable are passports, driving licences with a photograph or Portman Group Citizen card or validated proof of age cards bearing the 'PASS' mark hologram.
4. All Staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically in regard to licensing and the refusal of sales to persons believed to be under the influence of alcohol or drugs.
5. Induction training must be completed and fully documented, prior to the sale of alcohol by the staff member and age related sales refresher training thereafter at intervals of no less than eight (8) weeks.
6. All restricted sales training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, The Licensing Authority and Trading Standards upon request.
7. At all times the premises is open and undertaking licensable activity, members of staff must be able to communicate sufficiently to enable them to promote the four licensing objectives and the ability to make an effective challenge.

#### Prevention of Public Nuisance

8. The premises shall at all times maintain and operate a sales refusals book and an incident log which shall be reviewed by the Designated Premises Supervisor at intervals of no less than four (4) weeks and feedback given to staff as required.
9. The refusals book and incident log shall be available upon request to the Police, Police Licensing Officers, Local Authority Staff and Trading Standards.

#### Prevention of Crime and Disorder

10. CCTV to be installed in accordance with Home Office Guidelines relating to UK Police requirements for Digital CCTV System.
11. CCTV images shall be retained for at least 28 days and except for mechanical breakdown beyond the control of the proprietor, shall be available upon request to the Police. Any breakdown or system failure will be notified to the Police on the non-emergency contact number or the Police Licensing Officer and remedied as soon as practicable.
12. It will be the responsibility of the DPS to ensure that any request from the Police for a recording to be made for evidential purposes is carried out as soon as possible.
13. Spirits will be stored and displayed behind the server.

The parties were reminded of the right to request a review of the licence should problems within the meaning of the licensing objectives arise and that there is a right of appeal to the Magistrates Court within 21 days of receipt of the full decision letter which will be sent to all parties within 5 working days of today.

Chairman.

**Minutes of a Meeting of the Mid Sussex District Council Liquor  
Licensing Panel held on Tuesday 8th May 2012  
from 10.00 a.m. to 11:44 a.m.**

**Present:** Councillors: Bruce Forbes  
Ginny Heard  
Peter Reed (Chairman)

Officers in attendance: Franca Currall, Assistant Solicitor to the Council  
Paul Thornton, Senior Licensing Officer  
Joe Alfano, Business Unit Leader for Environmental Health

Also in attendance: John McClure, West Sussex Fire and Rescue Service  
Julian Fennell, Purple Carrot Enterprises Ltd.  
Chris Wilson, Purple Carrot Enterprises Ltd.

**LS.23 SUBSTITUTES AT MEETINGS OF COMMITTEES ETC. - PROCEDURE RULE 4**

None.

**LS.24 APOLOGIES FOR ABSENCE**

None.

**LS.25 DECLARATIONS OF INTEREST**

None.

**LS.26 APPLICATION TO GRANT A PREMISES LICENSE THE PURPLE CARROT CAFE,  
OCKENDEN LANE, CUCKFIELD, WEST SUSSEX, RH17 5TD**

Paul Thornton, Senior Licensing Officer introduced the report and outlined the application before Members. He informed the Panel that the applicant was applying for a premises license for the venue, which was undergoing extensive refurbishment.

Sussex Police had agreed a number of conditions with the applicant. West Sussex Fire and Rescue Service had a number of concerns about the premises, including means of escape from the basement area. Mid Sussex District Council Environment Health also had concerns and had proposed a number of conditions.

Three representations had been received; one was invalid due to being received outside the application period. Concerns were raised about the application, including potential public nuisance and noise breakout from patrons and music.

The Senior Licensing Officer said that the applicants sought to clarify some issues raised following the consultation period and some alterations to their application.

### Representation by Applicants

Mr Wilson explained that since the original application was submitted they had been able to refine their ideas of what the premises would be used for.

The provision of dancing facilities would only be provided on rare occasions, less than once a month for privately held parties on Saturday evenings.

Following discussions with Environment Health officers the performance of live music would be restricted to non-amplified music as background entertainment on Saturday or Sunday afternoons. The only potential use of amplification would be for a quiz event on Saturday evenings. Recorded music would only be played on Saturdays as background music.

Mr Wilson said that performance of plays would be impractical and so that had been withdrawn from the application. The exhibition of film would only occur between 1930 p.m. and 2130 p.m. on Wednesday or Thursday evenings and on around 26 occasions throughout the year.

Agreement on conditions had been reached with Sussex Police for the sale of alcohol and so that part of the application, as well as the proposed opening times, were to remain the same.

The Fire and Rescue Service had been unable to conduct any checks on the building due to ongoing building work. Mr Wilson said that this work was now complete and a Fire Risk Assessment was being completed. He said that a discussion had taken place via email on 12<sup>th</sup> December 2011 where it was agreed that building control approval would not be necessary for the alterations being made.

The applicant would adopt the bottling out process suggested by Environmental Protection. Mr Wilson said that an acoustic engineer would not be brought in as he considered it an excessive cost following discussions with noise officers from another local authority. Mr Wilson had regularly tested for noise pollution from music at the venue during the renovation period and had received no negative feedback at that point.

### Questions from Members of the Panel

A Member asked about waste storage and Mr Wilson said that the Fire Safety Engineer had approved the proposed location for waste storage.

One Member queried how Mr Wilson would deal with the potential for noise and public nuisance from smoking customers and he said that it would be built into staff policies that this be controlled.

In response to a Member's question Mr Wilson said that any tables and chairs on the pavement outside the premises would sit within the boundary of the property and the applicant would seek permission from West Sussex County Council.

### Representation by Responsible Authorities

Mr McClure, the West Sussex Fire and Rescue Service Fire Safety Engineer said that he had stated in his letter to the applicant that a Fire Risk Assessment and fire safety management procedures would have to be provided. He had visited the premises on 3<sup>rd</sup> May 2012 and there were no such procedures or assessment in place at that time. He was concerned with the means of escape from the basement area and Mr Wilson was not about to show what control measures were in place. The travel distance to an exit from an inner room in the basement area was close to the maximum allowed.

The Team Leader for Environmental Protection said that he had undertaken two visits to the premises. He had been reassured at the number of changes made but still had concerns about the potential for noise breakout from the basement area. The proposed floor plan and the presence of air vents adjacent to a pavement level window meant that the likelihood of noise breakout would be increased. He understood that seeking the advice of an acoustic consultant would be an additional cost for the applicant but he felt it would be necessary to identify weak points and action taken to reduce noise breakout. He highlighted that noise from patrons was a concern.

The inner rooms in the basement area have no ventilation and the Team Leader for Environmental Protection asked that these areas be excluded from the premises licensed area.

### Response from the Applicant

Mr Wilson said a double boarded soundboard had been installed by the builders and he believed the venue had been adequately prepared for the proposed uses. The inner rooms in the basement area were controlled by locked doors and would be used as staff areas only, with no intention for licensable activity to take place in these rooms.

### Questions from Members of the Panel

One Member asked the Team Leader for Environmental Protection if he believed there could still be noise breakout from unamplified music at the premises and he said that he did due to air vents at pavement level.

The Member asked the Team Leader for Environmental Protection if he objected to the application at the current time and he said that he did.

### **The meeting adjourned and reconvened at 11:42 a.m. for the Panel to deliver their decision**

The Chairman informed the meeting that the Panel are refusing this application as after due consideration the Panel feel that the licensing objectives of public safety and prevention of public nuisance have not been satisfied. As no Fire Risk Assessment or fire safety management procedures have been provided to West Sussex Fire and Rescue Service for their comments and approval. None of the issues raised in the West Sussex Fire and Rescue services letter dated 13 April 2012 have been met.

The Panel remain concerned about the noise breakout despite the alterations the



applicant has made and feel further inspection by the Mid Sussex District Council Environmental Protection Team is needed, and similarly the question of ventilation needs to be addressed by the applicant.

A full, more detailed response will be sent out within 5 working days and the Panel reminded all parties of the right to appeal to the Magistrates Court within 21 days of receipt of the letter, details of which will be included in said letter.

**RESOLVED**

That the application be refused.

The meeting closed at 11:44 a.m.

Chairman.