

5. INCREASE IN HACKNEY CARRIAGE FARES AND ADJUSTMENT OF FUEL SURCHARGE TRIGGER POINT AND ADDITION OF BOOKING FEE

REPORT OF: Head of Housing, Environmental Health and Building Control
Contact Officer: Alec Lee, Hackney Carriage and Private Hire Licensing Officer
Email: alec.lee@midsussex.gov.uk Tel: 01444 477335
Wards Affected: All
Key Decision No

Purpose Of Report

1. The purpose of the report is for the Licensing Committee to consider applications from the Mid Sussex Taxi Association requesting an increase in Hackney Carriage fares, a re-adjustment of the Fuel Surcharge trigger point and the introduction of a discretionary booking fee for advance bookings. The Mid Sussex Taxi Association has requested the changes be introduced from the 1st April 2013.

Recommendations

3. **Members are recommended to implement the proposed new Hackney Tariffs, Fuel Surcharge trigger point and booking fee as detailed in appendix 5**
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Background

- 4.1 The Mid Sussex Taxi Association has requested an increase in Hackney Carriage fares, a re-adjustment of the Fuel Surcharge trigger point and the introduction of a discretionary booking fee for advance bookings (details attached in appendix 1, 2 and 3). The Association state that on the grounds of fluctuating fuel costs, increase in vehicle maintenance costs and the impact of the Private Hire fleet working in Mid Sussex they consider the increases necessary to operate. The last authorised increase in Hackney Tariffs was implemented in April 2011, with minor adjustments in June 2012 with regard to vehicles carrying five or more passengers.
- 4.2 The proposals are:
 - (a) Reduce the minimum fare (flag) distance from 422 yards to 338 yards.
 - (b) Retain the flag fare at £2:80p.
 - (c) Reduce the distance travelled for every 20p thereafter from 176 yards to 170 yards.
 - (d) Waiting time to be retained at 20p for 40 seconds, this equates to £18 per hour.
 - (e) Fuel Surcharge trigger point to increase from £1:40p to £1:90p per litre
 - (f) Addition of a discretionary booking fee of 50p where an advance booking is taken.

Policy Context

5. By virtue of the Town Police Clauses Act 1847, The Local Government (Miscellaneous Provisions) Act 1976 and the Transport Act 1985 the Council is required to administer and enforce the activities of Hackney Carriages throughout the district. The Council is required to advertise the proposed changes in the local paper three weeks before they come into affect.

Financial Implications

6. Amendments to the Hackney Carriage tariffs cost the Council approximately £900 for advertising the changes in the local newspapers. This cost can be met within budget.

Risk Management Implications

- 7 In accordance with the Council's Risk Management Strategy, consideration had been given to the potential risks associated with the recommendations set out in this report. The proposed changes in the fuel surcharge will be advertised so that members of the public will be given ample opportunity to submit objections prior to implementation.

Equality and Customer Service Implications

8. The fare increase is likely to affect users on low income but the fares are the maximum cost a driver can charge. All users can negotiate their fares or shop around for an alternative transport provider e.g. private hire operator or public transport.

Background Papers

9. None



A voice for the Hackney Carriage Trade in Mid Sussex

Repeat of Fuel Surcharge Voting, Joint Trade Meeting

Dear Mr Lee,

Those present at the Joint Trade meeting resolved to request the Mid Sussex District Council to permit the change to the tariff card detailed below. In accordance with custom and practice the full contactable membership of the Association was offered the opportunity to ratify or otherwise this proposal to see if it will go forward to MSDC. The result is now in: For 50, Against 12; motion passed

~ EXTRACT FROM MINUTES ~

That the Fuel Surcharge should be reset at a higher level (detailed immediately below) to reflect its original intended use and that it should not be used as a negotiating point for a tariff increase.

Table 1

CODE	TRIGGER Pump Price/litre (£)	SURCHARGE Pence
A	1.90	20
B	2.25	40
C	2.50	60

~ END OF EXTRACT ~

Justification

History: This Association successfully petitioned the Council to use the surcharge formula detailed below to protect the trade from rocketing fuel prices (2005/06). This is activated by the Licensing Officer when a trigger is reached. A local Haywards Heath garage (opposite station) is used as a pointer. An official notice for display in each taxi will be provided by the MSDC to enable this addition to the metered fare to be charged. The petition included the following rider: *This is not meant to increase our profits, just to insulate us quickly from world events.*

CODE	TRIGGER Pump Price/litre (£)	SURCHARGE Pence
A	1.25	25
B	1.50	40
C	1.75	60

The surcharge is to be applied to each £5 of indicated meter reading or part thereof.

To restore the ratio between the average fuel price (*Source Automobile Association*) and the minimum trigger point the surcharge trigger points were raised as below with effect from 1st April 2008:

CODE	TRIGGER Pump Price/litre (£)	SURCHARGE Pence
A	1.40	25
B	1.65	40
C	1.90	60

To maintain this custom and practice the fuel triggers should now be increased to those at in Table 1 above.

Mike.Revely (HV 012), Secretary of the Association, November 2011, 6 Cantelupe House, Cantelupe Road, East Grinstead, West Sussex. RH19 3BZ. Mobile: 07802693930, e-mail: MRXaron@AOL.Com



A voice for the Hackney Carriage Trade in Mid Sussex

Tariff Increase Proposal October 2012

Dear Mr Lee,

Those present at the AGM in October resolved to request the Mid Sussex District Council to permit the tariff card addition detailed below. In accordance with custom and practice the full contactable membership of the Association was offered the opportunity to ratify or otherwise this proposal to see if it will go forward to MSDC. Postal vote result, see below:

~ EXTRACT FROM MINUTES – AGM, October 2012 ~

- 5. Committee and Plate Holder’s written proposals
 - b. That this Association petition the Council to introduce an optional booking fee of 50p chargeable on pre-booked work but not rank hirings or flag downs.

VOTING at meeting: FOR - 20, AGAINST - 0, motion passed

~ END OF EXTRACT ~

Result of the postal vote:

50p Booking Fee			
For	Against	Spoiled Papers	Total
51	10	4	65

Justification

It is now two years since a general tariff increase has been requested. The steady upward trend of fuel prices and repair costs now makes (in our view) such a request necessary.

The activities of out-of-area Private Hire vehicles and taxis roaming our district and hiring transgressions by some of our own Private Hire have not abated.

We therefore respectfully request that the tariff card be changed to include the booking fee detailed in (5) above.

Mike.Revely (HV 012), Secretary of the Association, November 2012, 6 Cantelupe House, Cantelupe Road, East Grinstead, West Sussex. RH19 3BZ. Mobile: 07802693930, e-mail: MRXaron@AOL.Com



A voice for the Hackney Carriage Trade in Mid Sussex

Tariff Increase Proposal October 2012

Dear Mr Lee,

Those present at the AGM in October resolved to request the Mid Sussex District Council to permit the tariff increase detailed below. In accordance with custom and practice the full contactable membership of the Association was offered the opportunity to ratify or otherwise this proposal to see if it will go forward to MSDC. Postal vote result, see below:

~ EXTRACT FROM MINUTES - AGM, October 2012 ~

5. Committee and Plate Holder's written proposals

- a) That this Association petition the Council to increase the tariff as detailed below:

That the Flag distance is reduced from 422 yards to 338 yards and that the Incremental yardage is reduced from 176 yards to 170 yards. The monetary amounts are to remain the same (Flag - £2.80 and Increment - 20p). This gives an increase of approximately 3.50 %.

VOTING at meeting: FOR- 14, AGAINST- 1, motion passed.

	Flag		Increment		Mileages (Theoretical)						
	Yards	Amount	Yards	Amount	1	2	3	4	5	10	20
Current	422	2.80	176	0.20	4.32	6.32	8.32	10.32	12.32	22.32	42.32
New	338	2.80	170	0.20	4.47	6.54	8.61	10.68	12.76	23.11	43.81
%					3.53	3.53	3.53	3.53	3.53	3.53	3.53
					Mileages (Meter)						
Current					4.40	6.40	8.40	10.40	12.40	22.40	42.40
New					4.60	6.60	8.80	10.80	12.80	23.20	44.00
Diff.					0.20	0.20	0.40	0.40	0.40	0.80	1.60
%					4.55	3.13	4.76	3.85	3.23	3.57	3.77

~ END OF EXTRACT ~

Result of the postal vote:

Tariff Increase, 338yds - 170yds			
For	Against	Spoiled Papers	Total
49	13	3	65

Justification

It is now two years since a general tariff increase has been requested. The steady upward trend of fuel prices and repair costs now makes (in our view) such a request necessary.

The activities of out-of-area Private Hire vehicles and taxis roaming our district and hiring transgressions by some of our own Private Hire have not abated.

We therefore respectfully request that the tariff be increased as detailed in extract (5) above.

Mike.Revely (HV 012), Secretary of the Association, November 2011, 6 Cantelupe House, Cantelupe Road, East Grinstead, West Sussex. RH19 3BZ. Mobile: 07802693930, e-mail: MRXaron@AOL.Com



**Maximum Hackney Carriage Fares from 1st June 2012
Local Government (Miscellaneous Provisions) Act 1976 Section 65**

Tariff 1- Applies to all hirings except those mentioned in Tariffs 2 and 3

Initial distance not more than 385 metres (422 yards) or a combination of distance and time, or part thereof.	£2.80p
For the next 161 metres (176 yards, or part thereof)	20p
Waiting time for each period of 40 seconds	20p

Tariff 2- Applies to all hirings begun between 12 midnight and 6am on weekdays and 12 midnight and 8.30am on Sundays, after 8pm on 24 and 31 December, all day 26 December, Good Friday, Easter Sunday and public and bank holidays, and all Sundays which are followed by a bank holiday in lieu.

Initial distance not more than 385 metres (422 yards) or a combination of distance and time, or part thereof.	£4.20p
For the next 161 metres (176 yards, or part thereof)	30p
Waiting time for each period of 40 seconds	30p

Tariff 3 - Applies to hirings from 00.01 hours on December 25 until midnight December 25

Initial distance not more than 385 metres (422 yards) or a combination of distance and time, or part thereof.	£5.60p
For the next 161 metres (176 yards, or part thereof)	40p
Waiting time for each period of 40 seconds	40p

Additional Charges

Subject to the licensed capacity of the vehicle, the driver, when carrying **five passengers or more** is allowed to charge **Tariff 2 when Tariff 1 charges apply, and Tariff 3 charges at times when Tariff 2 charges apply.**

Soiling charge **£40**

Emergency Fuel Surcharge

To be applied to each £5 of indicated metered fare, or part thereof, **during periods** when pump prices reach

A	£1.40 - £1.64p per litre	25p
B	£1.65p - £1.89p per litre	40p
C	£1.90p per litre	60p

Any enquiries, please contact:

Mid Sussex District Council
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS
01444 458166
www.midsussex.gov.uk/taxi

APPENDIX 5



Maximum Hackney Carriage Fares from 1 April 2013

Local Government (Miscellaneous Provisions) Act 1976 Section 65

Tariff 1- Applies to all hirings except those mentioned in Tariffs 2 and 3

Initial distance not more than 309 metres (338 yards) or a combination of distance and time, or part thereof.	£2.80p
For the next 155 metres (170 yards, or part thereof)	20p
Waiting time for each period of 40 seconds	20p

Tariff 2- Applies to all hirings begun between 12 midnight and 6am on weekdays and 12 midnight and 8.30am on Sundays, after 8pm on 24 and 31 December, all day 26 December, Good Friday, Easter Sunday and public and bank holidays, and all Sundays which are followed by a bank holiday in lieu.

Initial distance not more than 309 metres (338 yards) or a combination of distance and time, or part thereof.	£4.20p
For the next 155 metres (170 yards, or part thereof)	30p
Waiting time for each period of 40 seconds	30p

Tariff 3 - Applies to hirings from 00.01 hours on December 25 until midnight December 25

Initial distance not more than 309 metres (338 yards) or a combination of distance and time, or part thereof.	£5.60p
For the next 155 metres (170 yards, or part thereof)	40p
Waiting time for each period of 40 seconds	40p

Additional Charges

Subject to the licensed capacity of the vehicle, the driver, when carrying **five passengers or more** is allowed to charge **Tariff 2 when Tariff 1 charges apply, and Tariff 3 charges at times when Tariff 2 charges apply.**

Soiling charge	£40
Booking Fee (Optional / only when advance booking made)	50p
Emergency Fuel Surcharge	

To be applied to each £5 of indicated metered fare, or part thereof, **during periods** when pump prices reach

A	£1.90 - £2.24p per litre	20p
B	£2.25 - £2.49p per litre	40p
C	£2.50 per litre	60p

Any enquiries, please contact:

Mid Sussex District Council
Oaklands Road
Haywards Heath
West Sussex RH16 1SS
01444 458166
www.midsussex.gov.uk/taxi

6. LICENSING CONDITIONS FOR PERFORMANCES OF HYPNOTISM

REPORT OF: Yvonne Leddy, Business Unit Leader, Environmental Health and Building Control
Contact Officer: Paul Thornton, Senior Licensing Officer
Email: paul.thornton@midsussex.gov.uk Tel: 01444 477428
Wards Affected: All
Key Decision No

Purpose of Report

1. The purpose of the report is for Mid Sussex District Council to adopt a set of licence conditions for the exhibition, demonstration or performance of hypnosis under the Hypnotism Act 1952.

Recommendations

2. **The Committee is requested to approve the adoption of the licence conditions for the exhibition, demonstration or performance of hypnosis attached at Appendix 1.**
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Background

- 3.1 The Hypnotism Act 1952 requires any person wishing to give an exhibition, demonstration or performance of hypnotism to apply to the local authority for a licence. Mid Sussex District Council has yet to adopt conditions to licence such events. Hypnotism includes hypnotism, mesmerism and any similar act or process which produces or is intended to produce in any person any form of induced sleep or trance in which the susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.
- 3.2 However this Act does not require the Council to licence the use of hypnosis for scientific or research purposes or for the treatment of mental or physical disease.
- 3.3 In February the Licensing Team received a request to licence a hypnotic performance in early April 2013.
- 3.4 The legislation requires the council to make a decision about the grant of a licence. Clearly each application will be dealt with on its merits, taking into account for example age of the applicant (minimum 21 years), public liability insurance, nature of the event, or problems arising at previous events.
- 3.5 The proposed conditions are wide ranging and require 28 days' notice to be given for the event. There is an age limit (18 years) on who can be hypnotised, together with a number of measures to prevent undue stress being caused to a volunteer or indeed members of the audience.
- 3.6 The legislation allows "any authorisation to be made subject to any conditions"

Policy Context

5. This subject is not a licensable activity for the purposes of the Licensing Act 2003 therefore is not covered within the Council's Licensing policy.

Financial Implications

6. None.

Risk Management Implications

7. None.

Equality and customer service implications

8. The proposed conditions prevent children and vulnerable persons from being exploited or harmed during such performances of hypnotism.

Background Papers

9. None



MID SUSSEX DISTRICT COUNCIL
Conditions for hypnotism etc. under the Hypnotism Act 1952 (as amended)

These conditions apply to hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which the susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

The Council must be informed in writing 28 days in advance of the performance concerned. The applicant must at the same time forward a copy of the application to the chief officer of police; and the authority may also copy it to the local fire authority if it considers this necessary.

1. Application

The application shall contain the following:

- (a) The name (both real and stage, if different) and address of the person who will give the performance (hereafter referred to as the "hypnotist"), along with details of their last three performances (where and when); and
- (b) A statement as to whether, and if so giving full details thereof, the hypnotist has been previously refused or had withdrawn a consent by any licensing authority or been convicted of an offence under the Hypnotism Act 1952 or of an offence involving the breach of a condition regulating or prohibiting the giving of a performance of hypnotism on any person at any theatre or other place of public amusement or public entertainment.

2. Publicity

- (a) No poster, advertisement or programme for the performance which is likely to cause public offence shall be displayed, sold or supplied by or on behalf of the licensee either at the premises or elsewhere:
- (b) Every poster, advertisement or programme for the performance, which is displayed, sold or supplied shall include, clearly and legibly, the following statement:
"Volunteers, who must be aged 18 or over, can refuse at any point to continue taking part in the performance"

3. Insurance

- (c) The performance shall be covered to a reasonable level of public liability insurance. The hypnotist must provide evidence of this to the local authority if requested; and it must be available for inspection at the performance;

4. Physical Arrangements

- (d) The means of access between the auditorium and the stage for participants shall be properly lit and free from obstruction;

- (e) A continuous white or yellow line shall be provided on the floor of any raised stage at a safe distance from the edge. This line shall run parallel with the edge of the stage for its whole width. The hypnotist shall inform all subjects that they must not cross the line while under hypnosis, unless specified to do so as part of the performance.

5. Treatment of Audience and Subjects

- (f) Before starting the performance the hypnotist shall make a statement to the audience, in a serious manner, identifying those groups of people who should not volunteer to participate in it; explaining what volunteers might be asked to perform; informing the audience of the possible risks from embarrassment or anxiety; and emphasising that subjects may cease to participate at any time they wish. The following is a suggested statement, which might be amended as necessary to suit individual styles as long as the overall message remains the same:

“I shall be looking for volunteers aged over 18 who are willing to be hypnotised and participate in the show. Anyone who comes forward should be prepared to take part in a range of entertaining hypnotic suggestions but can be assured that they will not be asked to do anything which is indecent, offensive or harmful. Volunteers need to be in normal physical and mental health and I must ask that no one volunteers if they have a history of mental illness, or are under the influence of alcohol or other drugs or are pregnant.”

- (g) No form of coercion shall be used to persuade members of the audience to participate in the performance. In particular, hypnotists shall not use selection techniques which seek to identify and coerce onto the stage the most suggestible members of the audience without their prior knowledge of what is intended. Any use of such selection techniques (e.g. asking members of the audience to clasp their hands together and asking those who cannot free them again to come onto the stage) should only be used when the audience is fully aware of what is intended and that participation is entirely voluntary at every stage;
- (h) If volunteers are to remain hypnotised during an interval in the performance, a reasonable number of attendants as agreed with the licensing authority shall be in attendance throughout to ensure their safety;

6. Prohibited Actions

- (i) The performance shall be so conducted as not to be likely to cause offence to any person in the audience or any hypnotised subject;
- (j) The performance shall be so conducted as not to be likely to cause harm, anxiety or distress to any person in the audience or any hypnotised subject. In particular, the performance shall not include:
 - (i) Any suggestion involving the age regression of a subject (i.e. asking the subject to revert to an earlier age in their life; this does not prohibit the hypnotist from asking subjects to act as if they were a child etc);
 - (ii) Any suggestion that the subject has lost something (e.g. a body part) which, if it really occurred, could cause considerable distress;
 - (iii) Any demonstration in which the subject is suspended between two supports (so called “catalepsy”);

- (iv) The consumption of any harmful or noxious substance;
- (v) Any demonstration of the power of hypnosis to block pain (e.g. pushing a needle through the skin);
- (k) The performance shall not include the giving of hypnotherapy or any other form of treatment.

7. Completion

- (l) All hypnotised subjects shall remain in the presence of the hypnotist and in the room where the performance takes place until all hypnotic suggestions have been removed.
- (m) All hypnotic or post-hypnotic suggestions shall be completely removed from the minds of all the subjects and the audience before the performance ends. All hypnotised subjects shall have the suggestions removed both individually and collectively and the hypnotists shall confirm with each of them they feel well and relaxed (the restriction on post-hypnotic suggestions does not prevent the hypnotist telling subjects that they will feel well and relaxed after the suggestions are removed)
- (n) The hypnotist shall remain available for at least 30 minutes after the show to help deal with any problems that might arise. (Such help may take the form of reassurance in the event of headaches or giddiness but this condition does not imply that the hypnotist is an appropriate person to treat anyone who is unwell)

8. Authorised access

- (o) Where:-
 - i) A constable; or
 - ii) An authorised officer of the licensing authority; or
 - iii) An authorised officer of the fire authority has reason to believe that a performance is being, or is about to be, given he may enter the venue with a view to seeing whether the conditions on which approval for the performance was granted are being complied with.

**Minutes of a Meeting of the Mid Sussex District Council Liquor
Licensing Panel held on Friday, 26th October 2012
from 10.00 a.m. to 10.45 a.m.**

Present: Councillors: Peter Reed (Chairman)
Kathleen Dumbovic
Richard Goddard

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

Also in attendance: Simon Battrum (Applicant)
Mrs. Battrum (Applicant's wife)

Alex Mackenzie, Interested Party (1)
Ann Guthrie, Interested Party (2)

LS.10 SUBSTITUTES AT MEETINGS OF COMMITTEES ETC. - PROCEDURE RULE 4

None.

LS.11 APOLOGIES FOR ABSENCE

None.

LS.12 DECLARATIONS OF INTEREST

None.

**LS13. APPLICATION FOR A GRANT OF A CLUB PREMISES CERTIFICATE –
LINDFIELD FOOTBALL CLUB, THE PAVILION, BACKWOODS LANE, LINDFIELD
COMMON, HAYWARDS HEATH, RH16 2EB**

Paul Thornton, the Council's Senior Licensing Officer introduced the report and outlined the application before Members. He explained that the application is for a Premises Certificate for the playing of live music, recorded music and the supply of alcohol.

He explained that, following legislation introduced on 1st October, dancing is no longer a licensable activity and therefore the application should be amended to take account of this. He also clarified that there is an exemption with regard to the playing of live music for fewer than 200 people between 2000 to 2300 hours.

He said that the Applicant has discussed with him, amending the hours in the application. He suggested this would be an appropriate time for the applicant to confirm the application details.

Response by the Applicant

The Applicant agreed that the premises are currently restricted by the planning condition and that he was open minded to leave at 2300 hours. He explained that he used to trade under the Cricket Club licence and clarified that there has been no

change to activities at the premises. He would prefer 0000 hours, but had no objection to amending the application to 2300 hours.

Response by the Responsible Authority

Paul Thornton, the Senior Licensing Officer asked for confirmation that the application is being formally changed. The Applicant confirmed to the Panel that he now wished to amend the terminal hours for all licensable activities to 2300 hours, with the exception of Sunday, which would remain at 2230 hours.

He also confirmed that Sussex Police had agreed a number of conditions, shown on page 43 of the report. The planning condition is attached for information only.

He explained that representations had been received from two residents who live near to the car park of the pavilion. He also gave the background to the submission of this application.

He confirmed that Lindfield Cricket Club holds a Club Certificate for the premises. The Football Club, a separate entity, has used this certificate to sell alcohol. After a discussion between Mr Thornton and representatives from the Cricket and Football Clubs he advised that separate licences were needed. If the Panel are minded to grant the licence, it will run alongside the Cricket Club Certificate and neither will be time limited. In the event of enforcement issues it will be a matter for the agencies involved to determine which certificate is being used. He explained that a Club Premises Certificate is very different to a Premises Licence as there are a number of conditions attached to a quality Club. He confirmed that he is satisfied Lindfield Football Club is a qualifying Club.

Submission by Interested Parties

Mr. McKenzie expressed his pleasure that circumstances had changed. Both he and Mrs. Guthrie overlooked the pavilion's car park. He added that they are both firm supporters of the community and appreciate the value of sport.

Lindfield Common is not always an ideal place to live and that an extension to hours would have added to problems. He added that it is essential and a big responsibility for the Club to ensure supervision and control.

Questions from Members of the Panel

A Member asked whether either Interested Party had made a complaint before. Mrs. Guthrie confirmed that she had made one in the past to an officer of the Council.

Response by the Applicant

Mr. Battrum explained that, as part of their licence, the Cricket Club do not trade between October and March. It is only Lindfield Cricket Club that hold fund raising events during the summer.

Questions from Members of the Panel

A Member sought clarification as to who would do the training. The Applicant confirmed that they had already sourced training packages and had a Challenge 21 in place. Club rules are very strict with regard to behaviour. The premises are run by Club members and are voluntary.

Response by Interested Parties

Both Interested Parties were pleased to see the application, as amended.

**The meeting adjourned at 10.35 a.m. and reconvened at 10:42 a.m.
for the Panel to deliver their decision**

The Chairman announced that, as the application has been amended so the finish time on a Friday and Saturday is 23:00. On that basis we grant the application, subject to the conditions set out on page 43 of the report. The full decision will be provided within five working days.

Any party then has 21 days to appeal to the Magistrates Court in Crawley against the decision.

Chairman.

**Minutes of a Meeting of the Mid Sussex District Council Liquor
Licensing Panel held on Monday, 19th November 2012
from 10.30 a.m. to 1.30 p.m.**

Present: Councillors: Peter Reed (Chairman)
Kathleen Dumbovic
Bruce Forbes

Officers in attendance: Tom Clark, Solicitor to the Council
Paul Thornton, Senior Licensing Officer
Daniel Kington, Senior Member Services Officer
Michael Martin, Planning Investigations Officer
Nicholas Bennett, Environmental Health Officer

Also in attendance: Sussex Kebab House
Fehbi Bozyel (Applicant)
David Dadds, the Applicant's solicitor
Cuneyt Cimen, ADA Licensing Group, the Applicant's agent

Denise Jeffery, Interested Party

LS.14 SUBSTITUTES AT MEETINGS OF COMMITTEES ETC. - PROCEDURE RULE 4

None.

LS.15 APOLOGIES FOR ABSENCE

None.

LS.16 DECLARATIONS OF INTEREST

None.

LS17. APPLICATION FOR THE GRANT OF A PREMISES LICENCE – SUSSEX KEBAB HOUSE, 19 SUSSEX ROAD, HAYWARDS HEATH RH16 4DZ

Paul Thornton, the Council's Senior Licensing Officer introduced the report and outlined the application before Members. He explained that the application seeks a Premises Licence for late night refreshment.

He confirmed that after consultation with the Applicant's legal representative, page 25 of the report was now withdrawn and the redacted paragraph on page 21 re-instated. He also confirmed that Sussex Police had agreed a number of conditions, shown on page 17 of the report and that representations had been received from two interested parties. He confirmed that there had been complaints about unauthorised trading beyond 11.00 p.m. causing noise nuisance in the recent past but not since the application had been submitted.

Response by the Applicant

David Dadds, the Applicant's solicitor received confirmation from Tom Clark, Solicitor to the Council that the Licensing guidance of April 2012 would be used for this application.

Responding to concerns expressed by the Applicant's solicitor, the Chairman confirmed that the Panel had no knowledge of the contents of representations received from a local residents' group after the consultation period had ended.

The Applicant's solicitor confirmed that a SIA accredited door supervisor would be employed at the premises from 11.00 p.m. onwards on Friday and Saturday nights and other "feast" days when the premises would open until 1.00am and that therefore Sussex Police had withdrawn their objection to the application.

Replying to a question from Tom Clark, Solicitor to the Council, the Applicant's solicitor confirmed that the door supervisor would be employed for 2.5 hours on Friday and Saturday nights only and it was difficult to employ such staff for short periods.

The Applicant's solicitor said that no complaint had been received by the Applicant about staff using the rear door of the premises and that the Applicant would ensure that staff did their smoking at the front of the premises and would not use the rear doors after 11.00p.m. He confirmed that that the Applicant would undertake to clear any litter up to a 25 metre curtilage of the premises after closing each night.

He said that with regard to objections about odours from the premises, the current arrangements met the Council's requirements and he invited the Council to resolve any environmental protection issues raised by the interested parties, adding that any odour from the extractor flue could only affect the property above and not the other property next door. He said this was therefore a private and not a public nuisance issue and so fell outside of the scope of the Licensing Act 2003.

With regard to the objection about noise nuisance, the Applicant's solicitor suggested that the bedrooms of the adjoining properties were at the rear and that this was a largely commercial area with ambient noise always present. He added that the presence of a door supervisor would minimise the noise of customers leaving the premises.

He said that the conditions regarding the extractor flue were separate planning matters for the planning system to determine and fell outside of the scope of the Licensing Act. He added that if successful with this application, the Applicant would apply for relevant planning permission.

In response to the objections raised by Nicholas Bennett, the Council's Environmental Health Officer, the Applicant's legal representative said these would be addressed by the presence of a door supervisor adding that the Applicant was unaware that staff using the back door and smoking at the rear of the premises had been a problem for the interested parties living above and adjacent to the premises.

Questions from Members of the Panel

In reply to a Member's question, the Applicant's solicitor confirmed that the Applicant understood that if the Licensing application was successful he would need to apply for planning permission and was also aware of the cost of hiring an accredited door supervisor.

Responding to a Member's question, the Applicant's solicitor confirmed that customers have previously entered the premises in a state of intoxication or have refused to payment, the staff had waived payment or called the police. He added that whilst not eliminating every incident, a door supervisor would manage any conflict.

Response by the Responsible Authority

Michael Martin, the Council's Planning Investigations Officer explained that planning permission was granted in 2011 for use as a takeaway food shop, subject to a number of conditions to safeguard the amenity of adjacent occupiers and protect the character of the area. He said there had since been a number of complaints about cooking odours and the premises remaining open beyond its permitted hours. He also expressed concern that the extraction flue condition should be discharged before any Licence was granted and that the proposed extended opening hours be reduced to safeguard the amenity of neighbouring residents.

Nicholas Bennett, Environmental Health Officer added that whilst he accepted there would be some ambient noise as this was a commercial area, avoiding the use of the rear doors to the premises would not reduce noise to an acceptable level. He said that whilst it would help in reducing noise on the street outside the premises, a door supervisor could only intervene once a disturbance had occurred. He added that odours from cooking were able to travel through the fabric of the building and that currently one of the extractor flue units was close to the bedroom window of a neighbouring property. He also expressed concern at the Applicant's failure to comply fully with the conditions of planning permission.

Submission by an Interested Party

Denise Jeffery confirmed that since the earlier complaints the Applicant had not been trading beyond his permitted hours. She explained that the extractor flue unit was four to five feet from her bedroom and the noise emanating from it prevented her sleeping. She said that she could not have her window open in the summer due to the noise and the Applicant's bins located under her bedroom window. She added that members of the public used an adjoining alleyway as a short cut, creating more noise and litter. She confirmed she had complained to the staff at the premises two to three times.

There were no questions from Members of the Panel.

Questions from the Applicant

In reply to a question from the Applicant's solicitor, the Planning Investigations Officer confirmed that whilst no planning enforcement notice had been issued yet, the Council's Legal Department were in the process of issuing it.

Responding to another question from the Applicant's solicitor, the Environmental Health Officer confirmed that as he was new to the post he had not spoken to the Applicant or the manager of the premises. He also confirmed that planning conditions had not been complied with and that the Council had received two complaints about the premises. He confirmed that a Noise Abatement Notice had not been issued.

In reply to a question from the Applicant's solicitor, Denise Jeffery confirmed that the alleyway was used by members of the public and that she did not know if it was a public right of way.

The meeting adjourned at 11.15 a.m. and re-convened at 11.32 a.m.

The Solicitor to the Council confirmed that the granting of a Premises Licence and the granting of planning permission were two separate matters.

The Applicant's solicitor said that the Applicant had believed he was in compliance with the planning conditions until a visit from the Senior Licensing Officer in August 2012, whereupon he submitted a Premises Licence application. He said that the Applicant understood there had been one visit by Denise Jeffery to the premises complaining about noise, adding that there was no noise emanating from the extractor flue unit itself but possibly emanating from the extractor flue ducting. He added that this would be a private and not a public nuisance matter, confirming that the extractor flue was legally compliant and had been installed by a competent person.

Replying to a Member's question, the Applicant's solicitor confirmed that the extractor flue was maintained by a contractor and added that the Applicant did not believe the noise emanated from his premises.

Denise Jeffery said that the air conditioning units adjoining her property did not make any noise and that the noise she had referred to came from the Applicant's extractor flue.

The Environmental Health Officer confirmed that it was possible for noise from the extractor flue unit to be transmitted along the associated ducting.

The Planning Investigations Officer confirmed that plans of the extractor flue had been received, but they were not shown in enough detail which meant that the Environmental Health Officers did not have enough information to discharge the Condition. The Planning Investigations Officer agreed that the issue could be resolved as a planning matter.

Final Submission from Applicant

The Applicant's solicitor said that if there was any noise nuisance it should be resolved by a Noise Abatement Notice rather than a Planning Enforcement Notice and did not believe it was a complicated matter to issue one. He added that the Council's Planning Enforcement team could have intervened at any time with regard to the extractor flue ducting.

He said that the presence of a door supervisor was an effective tool in preventing and managing unacceptable noise, adding that since trading had commenced there had been no complaints about customer noise at the front of the premises and that Sussex Police had withdrawn their objection to the granting of a Premises Licence following the agreement to provide a registered door supervisor from 11.00 p.m. until 30 minutes after closing time when the premises traded until 1.00 a.m. He said that the Applicant was happy to discuss the issue of the adjoining alleyway and had not been aware of any problem as he had not received any complaints about it. He added that the Applicant was now aware of these concerns and would seek to address them. He said that staff would undertake not to use the bins or the rear of the premises beyond 11.00 p.m.

With regard to the internal noise and the odours, the Applicant's solicitor re-iterated that this was not a public nuisance and could not be addressed through the Licensing Act as it was a private matter. He asked for a determination by the Panel on this point.

The Applicant's solicitor confirmed that the use of the bins and the rear of the premises will cease between 11.00 p.m. and 8.00 a.m., with cleaning of litter within a 25 metre curtilage of the premises 30 minutes after closing each night. He suggested that for the purposes of clarification, the agreed extent of the curtilage be marked on the map on page 5 of the report. He added that the Applicant also offered to install CCTV to provide evidence that the premises was closing on time.

**The meeting adjourned at 11.55 a.m. and reconvened at 12:20 p.m.
for the Panel to deliver their preliminary decision**

The Solicitor to the Council read out the Panel's decision and confirmed that the full decision would be made available within five working days. The application was granted save that no extended hours would be given on a Sunday outside the specific named Sundays and the terminal hour Monday to Thursday would be 11.30 p.m. Where the premises opened until 1.00 a.m. a registered door supervisor would be employed from 11.00 p.m. to 30 minutes after the 1.00 a.m. finish. The other conditions recommended by the police would be included together with the further conditions on clearing rubbish from the pavement and not using the external bins between 11.00 p.m. and 8.00 a.m. the following morning.

The Applicant's solicitor said that he would have expected reasons to have been given by the Panel for the reduction of the requested opening hours by thirty minutes Monday to Thursday and asked for the evidence for imposing conditions.

The Solicitor to the Council replied that the Applicant's solicitor had informed the Panel that a door supervisor was only required on Friday and Saturday nights and not between Monday and Thursday, whilst Sussex Police had provided the evidence for imposing conditions on Friday and Saturday nights.

The procedure the Licensing Panel will follow in considering the application is set out in the Licensing Act 2003, its attendant Regulations and was agreed by the Licensing Committee on 2nd February 2005. The Licensing Panel, in accordance with rule 14 of the Licensing Act 2003 (Hearings) Regulations 2005 decided to exclude the public from all or part of the hearing where the Licensing Panel considers that it is in the public interest to do so.

RESOLVED

That the Licensing Panel, in accordance with rule 14 of the Licensing Act 2003 (Hearings) Regulations 2005 exclude the public from all or part of the hearing where the Licensing Panel considers that it is in the public interest to do so.

LS18. APPLICATION FOR A PERSONAL LICENCE

Following consideration of this matter in exempt session, the Chairman of the Panel brought the meeting back into open session.

The Solicitor to the Council read out the Panel's decision to refuse the application at this time and confirmed that the full decision would be made available within five working days.

RESOLVED

That the application for the personal alcohol licence be refused because the Sub-Committee considers it appropriate for the promotion of the crime prevention objective to do so because of the recent serious criminal conviction and the relatively short experience of the applicant in the licensing trade.

Chairman.

**Minutes of a Meeting of the Mid Sussex District Council Liquor
Licensing Panel held on Monday, 17th December 2012
from 2.00 p.m. to 3.25 p.m.**

Present: Councillors: Peter Reed (Chairman)
Bruce Forbes
Richard Goddard

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

Also in attendance: Mr. Mitchener (the Applicant's representative)
Mr. and Mrs. Fowler (Interested Party)

LS.18 SUBSTITUTES AT MEETINGS OF COMMITTEES ETC. - PROCEDURE RULE 4

The Panel noted that, in accordance with Council Procedure Rule 4 – Substitutes at Meetings of Committees etc. - Councillor Forbes had replaced Councillor Heard for the duration of the meeting.

LS.19 APOLOGIES FOR ABSENCE

Apologies were received from Councillor Heard.

LS.20 DECLARATIONS OF INTEREST

None.

LS21. APPLICATION FOR THE GRANT OF A PREMISES LICENCE – COSTCUTTER EXPRESS, HASSOCKS SERVICE STATION, LONDON ROAD, HASSOCKS BN6 9NZ

Paul Thornton, the Council's Senior Licensing Officer introduced the report and outlined the application for Late Night Refreshments and the Sale of Alcohol.

He highlighted that a number of conditions have already been agreed with Sussex Police and the Council's Environmental Protection Team. He suggested that, should the Committee agree the application, these conditions be appended to the Licence.

He outlined the history of the site and the representations which have been received in objection to the application.

Submission by the Applicant's Representative

Mr. Mitchener, the Applicant's representative explained that the application is for a new Premises Licence for the sale of alcohol between 0600 and 2300 and for the sale of Late Night Refreshments from 2300 to 0500.

He explained that for over ambient temperatures the premises need to have a licence, even if alcohol is not sold. He confirmed that his client was more than happy to display signage to say that alcohol is not sold on the premises after 2300. He also

confirmed that there are no outstanding representations from the Responsible Authorities.

He referred to the objection which had been received and explained that the site was taken over earlier this year by his client. He explained that there had been a number of issues with travellers, of which the Police are aware. He emphasised that none of the problems related to the sale of alcohol and he reminded the Panel that the points raised had to relate to the Licence.

Questions from the Panel

A Member referred to the night-hatch which would be in use after 2300 and asked how coffee and food would be purchased.

In response to questions from Members relating to the serving of food and drinks the Applicant's representative explained that this would be operated through the hatch and confirmed that the cashier would have to leave his post to prepare the food. Access to the premises would have to be at the discretion of the cashier. The doors are locked at 2300 and are controlled by the press of a button. He also confirmed that the Police had accepted a Challenge 25 Policy.

Another Member referred to the congestion of people on the forecourt and asked how they would be dealt with.

The Applicant's representative responded that a situation of this kind had not been experienced before, apart from the incident with the travellers. If necessary, then the Police would be called.

The Member asked who undertook training and the Applicant's Representative explained that this was carried out by the Door Premises Supervisor. The Senior Licensing Officer confirmed that he was happy with the training package.

In response to a question from a Member about the noise emanating from the tannoy, the Applicant's Representative confirmed that the volume would be turned down at night.

Further Submission by the Applicant's Representative

Mr. Mitchener explained that, currently, the premises operate from 0600 to 2300 and the premises had been refitted to facilitate new trading hours. He confirmed that his client was happy to trade for three months at the current hours to allow the alcohol provisions to bed in should the Panel be minded to grant the application.

The Senior Licensing Officer thanked Mr. Michener for his client's gesture of goodwill, but noted under the Licensing Act, it would be totally unenforceable.

Submission by the Interested Party

Mrs. Fowler referred to earlier public nuisance and said that the staff currently there had been so for longer than eight months. She added that people loiter around the garage and there is only one member of staff on duty. She suggested that, if alcohol is for sale until 1100pm, people will pop in to purchase alcohol.

She referred to damage caused to cars and said that if there is an ability to buy alcohol, this will only exacerbate the situation. She suggested that the hours could

be lessened to try and reduce groups of youths and their intimidating behaviour. She added that she does not have any objection to sale of alcohol, but the hours could be reduced to avoid the problems mentioned above.

Response by the Applicant's Representative

Mr. Mitchener confirmed that the premises currently trade from 0600. There had been no reports of any problems later. The sale of alcohol would cease at 2300.

Further Submission by the Interested Party

Mr. Fowler said that problems can be caused by the hatch, especially if the wrong food is supplied. He added that there are already several food outlets in the area already.

In response to a question from a Member as to whether the problems experienced are directly attributable to the garage, Mr. Fowler confirmed that they are, especially at weekends. Customers regularly shout through the hatch every weekend.

A Member advised the Interested Party that, if the licence is granted and problems do occur with the conditions imposed, it can be reviewed and possibly revoked.

Mr. Fowler said that this could be difficult to prove. The Member said that he should contact either the Environmental Health Officer or the Police.

Mr. Fowler referred to the damage to cars and confirmed that there are many instances around about closing time and he feels that the situation is exacerbated by alcohol.

A Member observed that the premises are covered by Police CCTV cameras which are programmed to Hassocks Police Station.

Another Member observed that the conditions have been accepted by the Applicant and premises upgraded accordingly.

Mr. Fowler explained that the closing off of two lanes nearest the houses was pointless, cars do not go round that way, they swing round to the front of the shop. He added that, in his opinion, there would be no such problems if the premises close at 2300.

Final Submission by The Applicant's Representative

The Applicant's Representative acknowledged that the representations made have been done so in good faith. He said that these past problems could not be dealt with now but his client would seek to ensure they didn't happen in the future.

**The meeting adjourned at 2.55 p.m. and re-convened at 3.23 p.m.
for the Panel to deliver their decision**

RESOLVED

That, having considered all the representations made this afternoon, we have decided to grant this application for alcohol from 0600 to 2300 and late night refreshments from 2300 to 0500 with all the conditions suggested by the Police and the further condition suggested by Mid Sussex District Council Environmental Health.

We note the applicants will not trade beyond 2300 for the first three months to allow the alcohol sales to settle down with signs explaining the alcohol sale times.

We remind all parties if there are problems with this Premises Licence the Police or an Interested Party can ask for a review.

The Chairman informed the meeting that the full decision will be provided within five working days and any party then has 21 days to appeal to the Magistrates Court against the full decision.

Chairman.

**Minutes of a Meeting of the Mid Sussex District Council Liquor
Licensing Panel held on Friday, 4th January 2013
from 10.00 a.m. to 11.17 a.m.**

Present: Councillors: Chris Hersey (Chairman)
Mims Davies
Bruce Forbes

Officers in attendance: Franca Currall, Assistant Solicitor to the Council
Paul Thornton, Senior Licensing Officer
Sally Blades, Committee Co-Ordinator (PA to the Chairman of
the Council

Also in attendance: Chris Wilson, the Applicant.
Nick Bennett, Environmental Health Officer, Mid Sussex
District Council (Responsible Authority).

LS.22 SUBSTITUTES AT MEETINGS OF COMMITTEES ETC. - PROCEDURE RULE 4

The Panel noted that no substitutes had been appointed in accordance with Council Procedure Rule 4 – Substitutes at Meetings of Committees etc.

LS.23 APOLOGIES FOR ABSENCE

None.

LS.24 DECLARATIONS OF INTEREST

None.

**LS25. APPLICATION FOR THE GRANT OF A PREMISES LICENCE – THE PURPLE
CARROT CAFÉ, 4 STANFORD TERRACE, STATION APPROACH WEST.
HASSOCKS, WEST SUSSEX. BN6 8JF**

Paul Thornton, the Council's Senior Licensing Officer introduced the report and outlined the application for the showing of films and the sale of alcohol.

He clarified that, following consultation with the Environmental Protection Team, the hours for the sale of alcohol had been amended. He also informed the Panel that conditions had also been agreed with both Sussex Police and the Environmental Protection Team.

The Senior Licensing Officer highlighted that two issues are still outstanding with regard to the planning conditions imposed on the premises. There are also two representations from local residents, the second representation being from the freeholder of the premises adjoining the café.

Submission by The Applicant

Mr. Wilson, the Applicant, confirmed that he had already sent through a number of representations to Members as he was not sure initially, if he would be able to attend the meeting.

He explained that he operated a small business which had been open for approximately eight months and operated a “bring your own” policy. He had a small range of clientele ranging from the age of 3 months to 94 years which consisted predominantly of locally based people.

He confirmed that he provided alcohol to clients who specifically request this service. He considered this to be an “extra string to his bow” but does not wish to see late night drinking and confirmed that alcohol is not provided to youngsters. He clarified that the films to be shown would be for children ranging from one to eight years old and that the sole purpose of offering this service is to widen what is on offer to the local population in order to sustain his business.

Questions from Members of the Panel

One Member asked what level of confidence Mr. Wilson could offer the Panel, should the licence be granted, that whatever conditions may be imposed he will adhere, to as his track record with regard to planning requirements appeared to be non-existent.

The Member reiterated that the Panel have to be confident, should the licence be granted, that any conditions imposed will be adhered to.

Response from The Applicant

The Applicant reminded the meeting that Planning and Licensing are two separate requirements. He went on to explain that he has been in regular contact with Planning over the last 11 months and that there is an ongoing dialogue.

The Applicant was of the opinion that most of the planning conditions had been carried out before the planning decisions were made. He confirmed that most of the points with regard to the planning application are in place with just two things outstanding.

One Member referred to Mr. Wilson’s “Bring your Own” policy and asked how many requests he had received and how many have been consumed on the premises.

Response from the Applicant

Mr. Wilson explained that he did not have a vast clientele, four to five people every week. He clarified that he charges for corkage and provides glass for the refreshments. He explained that he had had a Temporary Event Notice over the Christmas period and on New Years Eve. There had been no issues and the consumption of alcohol stopped had ceased at 11.00 p.m. but the event had continued until 1.00 a.m.

Question from a Member

A Member expressed her surprise that, as near a station, the premises remains open so late. She asked the Applicant whether he had looked at increasing his trade further in the morning

Response from the Applicant

Mr. Williams explained that someone else holds the franchise in the station and they have a gentleman’s agreement with regard to trading hours.

He clarified that, currently, the café is open until 7.00 p.m. to 7.15 p.m. weekdays. On a Friday until 10.30 pm. On Saturdays the premises are only open if there is a function, and on Sunday's only until the middle of the day.

Question from a Member

A Member referred to the pavement space outside the café and asked how it is managed.

Response from the Applicant

The Applicant explained that a canopy is provided for smokers and a pail provided for cigarette butts to be placed.

The Applicant, clarified, in response to a question from a Member that he did not hold legal permission to use the pavement.

Question from a Member

A Member asked the Applicant if he is aware of the letter of objection from 19 Chancellors Park. The Applicant reaffirmed that he was and that the points raised would be dealt with under planning control.

Response from Responsible Authority

The Responsible Authority supported the application, although no schemes have been received from the applicant and there is no evidence that works have been carried out. The Responsible Officer confirmed that the draft conditions had been suggested to Planning by Environmental Health.

The Chairman of the Panel expressed his concern with regard to groups of school children who frequent the premises and said that the Applicant had not given any steer as to how the sale of alcohol would be undertaken and asked for clarification on the matter.

Response by the Applicant

The Applicant confirmed that he offered a table service and that alcohol was not served to young people. He clarified that alcohol is stored on the ground floor in a locked cupboard.

He clarified that downstairs, the premises is more exclusively geared to children. He explained that the premises is a locally based community café and that he knows the patrons. He added that he is a School governor and is very aware of safeguarding children.

In response to a question from a Member, the Applicant confirmed that, if refreshments are purchased from the café, then he permits them to be consumed outside the premises.

Submission by the Response Authority

The Senior Licensing Officer clarified, for the benefit of the meeting, that the plan submitted does not show the pavement area, it only shows the interior of the

premises. There is a public highway outside and confirmed that the consumption of alcohol outside the premises would not be permitted.

Response by the Applicant

The Applicant confirmed that he would look at this issue at a future date.

Questions from Members of the Panel

In response to a number of questions from Members regarding noise, the Environmental Health Officer confirmed that noise is more disturbing the later it gets. He added that he had spoken to the Applicant with regard to sound proofing and added that a sound proofing scheme is aimed at controlling noise. He added that the sound proofing scheme is a planning condition which has not yet been complied with.

Response by the Applicant

The Applicant confirmed that he had spoken to the complainant and that he had taken measures to alleviate noise. He added that, because of the situation of the premises, noise is also generated by visitors to the car park, train station, taxi rank and public house opposite.

Submission by the Responsible Authority

The Senior Licensing Officer referred to unaccompanied children and said the applicant could effectively ban unaccompanied children after a certain time and the Applicant confirmed that he already discourages them from visiting the premises after 6.00 p.m.

The meeting was adjourned at 10.45 a.m. and re-convened at 11.15 to deliver their decision

RESOLVED

That the Premises Licence be granted, subject to the following conditions:-

- (1) the premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age;
- (2) signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises;
- (3) the only form of ID that will be accepted are valid passports, driving licences with a photograph or Portman Group, Citizen card or a validated proof of age cards bearing the "PASS" mark hologram;
- (4) 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 relevant;
- (5) 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 age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol;

- (6) induction training must be completed, and fully documented, prior to the sale of alcohol by the staff member and refresher training thereafter at intervals of no less than twelve (12) weeks;
- (7) all restricted sales training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to the Sussex Police;
- (8) 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;
- (9) should any event be planned that will be of an adult nature, no person aged 17 or under shall remain on the premises for the duration of the event;
- (10) notices to be displayed in premises and at premises exit requesting customers to respect neighbours and keep noise to a minimum;
- (11) no deliveries of alcohol nor any "bottling out" activities outside the following hours: 0800 to 2030
- (12) no unaccompanied children to remain on the premises after 1800.

The Chairman informed the meeting that the full decision will be provided within five working days and any party then has 21 days to appeal to the Magistrates Court against the full decision.

Chairman.

**Minutes of a Meeting of the Mid Sussex District Council Liquor
Licensing Panel held on Monday, 4th February 2013
from 10.20 a.m. to 11.17 a.m.**

Present: Councillors: Bruce Forbes (Chairman)
Richard Goddard
Ginny Heard

Officers in attendance: Franca Currall, Assistant Solicitor to the Council
Paul Thornton, Senior Licensing Officer
Sally Blades, Committee Co-Ordinator (PA to the Chairman of
the Council

Also in attendance: Mr. Turfan Arslan, the Applicant
Mr. Kumal, the Applicant's representative
Mrs. Ceran, Instructing Agent's Representative

Also Present:- Councillor John O'Brien.

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

The Panel noted that no substitutes had been appointed in accordance with Council Procedure Rule 4 – Substitutes at Meetings of Committees etc.

LS.24 APOLOGIES FOR ABSENCE

None.

LS.25 DECLARATIONS OF INTEREST

None.

LS26 OBJECTION TO TEMPORARY EVENT NOTICE – LICENSING ACT 2003

Paul Thornton, the Council's Senior Licensing Officer introduced the report and outlined the objection to the application for a Temporary Event Notice for an event due to be held on 16th February. He explained that the objection had been received from Sussex Police who had raised concerns under the licensing objectives relating to Crime and Disorder and the Prevention of Harm to Children.

The Senior Licensing Officer referred to an incident which took place at the café on 12th January when a number of young people were drinking alcohol on the premises and were heavily intoxicated. He confirmed that the premises already has a licence and live music is played during the week.

He outlined the history of the café and the change in ownership of the premises. He added that the Council had not received notification of the change in ownership until 21st January when application was made to transfer the Premises Licence into the name of Bluebell Café Ltd. and to change the Dedicated Premises Supervisor to Mr. Turfan Arslan.

The Senior Licensing Officer took Members to Section 5 of the report which listed the options currently before members.

Submission by the Applicant's Representative

The Applicant's Representative informed the meeting that he would be asking for an adjournment of the hearing. He explained that, because of the lateness in receiving the papers for today's hearing there had not been enough time to consider the matter fully and, in the interests of justice, the hearing should be adjourned. He added that the Applicant had given notice of Temporary Event Notice (TEN) in early January and that his client had acted diligently.

He added that there is ample time for the Council to re-hear this matter and he submits that the application to adjourn be granted.

Question by a Member of the Panel

A Member asked whether Mr. Arslan was running the business on the night of the incident. The Applicant, through his representative, confirmed that he was. The Member then asked if the Applicant holds a Personal Licence, and if he does then he would know the requirements of the law. The Applicant, through his representative, also confirmed that he is the holder of a Personal Licence.

Submission by the Responsible Authority

Sergeant Jarred from Sussex Police informed the meeting that he objected to the hearing being adjourned. The documentation had been sent by the Police to the Applicant on 24th January, the same time as the Council, and it was extremely frustrating to have to adjourn the hearing.

Response by the Senior Licensing Officer

The Senior Licensing Officer confirmed that, due to an administrative error, the papers had not been sent out to Mr. Aslan. Mr. Thornton had been contacted on the afternoon of 1st February and a copy was then sent by e-mail to the agents and the instructing solicitors.

The Panel adjourned at 10.40 a.m. to consider the application for adjournment and returned at 10.55 a.m. to deliver their decision

Submission by the Applicant's Representative

The Applicant's Representative informed the meeting that, as he had been instructed to deal only with the application to adjourn the hearing, he would have to withdraw. He duly left the meeting.

Submission by the Responsible Authority

The Responsible Authority raised some concerns relating to the legal representative dismissing himself from the meeting. As the Applicant did not have a good command of English he did not think it appropriate for the hearing to proceed.

The Panel adjourned again at 11.00 a.m. to consider their decision and returned to the meeting again at 11.03 a.m.

The Chairman informed that meeting the hearing would be adjourned until Monday, 11th February. The time and venue would be notified in due course once a venue had been confirmed.

Chairman.

**Minutes of a Meeting of the Mid Sussex District Council Liquor
Licensing Panel held on Monday, 11th February 2013
from 11.30 a.m. to 12.31 p.m.**

Present: Councillors: Bruce Forbes (Chairman)
Richard Goddard
Ginny Heard

Officers in attendance: Franca Currall, Assistant Solicitor to the Council
Paul Thornton, Senior Licensing Officer
Sally Blades, Committee Co-Ordinator (PA to the Chairman of
the Council

Also in attendance: Mr. Turfan Arslan, the Applicant
Mr. Mahir Killic, the Applicant's Representative
Sergeant Ian Vasey, Sussex Police

LS.27 SUBSTITUTES AT MEETINGS OF COMMITTEES ETC. - PROCEDURE RULE 4

The Panel noted that no substitutes had been appointed in accordance with Council Procedure Rule 4 – Substitutes at Meetings of Committees etc.

LS.28 APOLOGIES FOR ABSENCE

None.

LS.29 DECLARATIONS OF INTEREST

None.

LS30 OBJECTION TO TEMPORARY EVENT NOTICE – LICENSING ACT 2003

Paul Thornton, the Council's Senior Licensing Officer introduced the report and outlined the objection to the application for a Temporary Event Notice for an event due to be held on 16th February. He explained that the objection had been received from Sussex Police who had raised concerns under the licensing objectives relating to Crime and Disorder and the Prevention of Harm to Children.

The Senior Licensing Officer referred to an incident which took place at the café on 12th January, when a number of young people were drinking alcohol on the premises and were heavily intoxicated. He confirmed that the premises already has a licence, and that live music is played during the week.

He outlined the history of the café and the change in ownership of the premises. He added that the Council had not received notification of the change in ownership until 21st January when application was made to transfer the Premises Licence into the name of Bluebell Café Ltd. and to change the Designated Premises Supervisor (DPS) to Mr. Turfan Arslan.

The Senior Licensing Officer took Members to Section 5 of the report which listed the options currently before them.

Questions by Members of the Panel

In response to a question from a Member, the Applicant's Representative confirmed that the Personal Licence was initially issued by the London Borough of Southwark. The Member added that, as part of transferring the Designated Premises Supervisor for the premises, the Applicant would have been aware of the procedures which have to be gone through with regard to applying to the relevant local authority for a Personal Alcohol Licence.

Response by the Applicant's Representative

The Applicant's Representative explained the current procedure in place with regard to applicants who speak Turkish and only have a limited knowledge of English when applying for a Personal Licence.

Submission by the Responsible Authority

Sergeant Ian Vasey informed the meeting that Sussex Police contest the Temporary Event Notice submitted by the Applicant as the licensing objectives are not being promoted if the licence goes ahead. He recalled the incident which had taken place at the premises where both the Police and Ambulance were called. He explained that there was a 15 year old girl who was intoxicated and needed hospitalisation. There had been a complete disregard of licensing objectives caused by bad management of the premises.

Question from a Member of the Panel

In response to questions from members of the Panel, the Applicant's Representative confirmed that the Applicant was present at the premises when the incident occurred and had arrived at 11.00 a.m.

Another Member asked if it was Mr. Arslan who called the Police. The Applicant's representative confirmed that the incident was recorded on CCTV and reported to Mr. Arslan by a member of staff.

Submission by the Applicant's Representative

The Applicant's Representative confirmed that Mr. Arslan has held a Personal Licence for three years and had, previously, ran an off-licence for ten years. He went on to explain that the Applicant had brought the premises with a partner late September 2012. The partner has now left leaving Mr. Arslan as the sole owner.

The Applicant's Representative went on to explain that after the incident it became aware on 18th January that the licence had not been transferred. The previous licence holder being a Mr. Rubin Sipkoski.

The Applicant's Representative explained that Mr. Sipkoski's wife did the organising of the event with the alcohol being provided by Mr. Arslan. He added that the 16 year old girl was present with members of her family. He confirmed that the event started at 7.30 p.m. with the intended closure time of 11.00 p.m. Instead the event was ended at 8.50 p.m. by Mr. Arslan.

The Applicant's Representative explained the lead up to the incident, at which time Mr. Arslan asked her family to call an ambulance. Police arrived at the premises even though they had not been called to the scene. A family member spotted bottles

of alcohol in the toilet which must have been smuggled in as that brand of alcohol is not sold on the premises.

The Applicant's Representative informed the Panel that, since then, two bookings for birthday parties have been cancelled and, in his view, appropriate action was taken on the night of the event.

Question from Members of the Panel

A Member asked if the Applicant is aware of the planning conditions and its restrictions with regard to opening hours. The Applicant's Representative confirmed that he did and explained that planning and licencing are two different matters.

Members asked whether other young people were also drunk and had some of them been drinking before the event?

The Applicant's Representative said that the girl's drunken state had come to the notice of Mr. Arslan. He also confirmed that no-one had noticed anyone who smelt of drink.

Response by the Applicant's Representative

The Applicant's Representative explained that the Applicant was not the Licence holder or the DPS on the night of the event, that was the previous owner.

Questions by Member of the Panel

One Member reiterated that the premises was purchased in November and that the Applicant has been a Licence holder for 10 years, in which case he should know the procedure as how to apply for a new licence and should have taken the appropriate action.

Submission by the Senior Licensing Officer

The Senior Licensing Officer asked what date the premises was transferred. The Applicant's Representative confirmed that this was first week in November. He asked what role Mr. Sipkoski took in running the business from November 2012 to 21st January this year. The Applicant's Representative confirmed that Mr. Sipkopsi did not have any role in running the premises.

The Senior Licensing Officer asked where the written authorisation for the sale of alcohol from Mr. Sipkopski is. The Applicant's Representative confirmed that it is not written, but can be confirmed verbally. The Applicant's Representative stated Mr. Sipkoski can be present if the Committee wants him. Mr. Thornton replied that the onus on calling him rested with the applicant as they had introduced evidence relating to Mr. Sipkoski's role.

The Senior Licensing Officer asked what role Mrs. Sipkopski had at the event. The Applicant's Representative confirmed that she was the person who provided the food for the party. The Senior Licensing Officer then asked who had overall control. The Applicant's Representative confirmed that it was Mr. Arslan.

The Senior Licensing Officer asked how long Mr. Sipkopski was present on the day of the incident. The Applicant's Representative confirmed that Mr. Sipkopski did not visit the premises that day. He confirmed that Mr. Arslan has owned the premises

since November. For three weeks in November then he became the sole owner.

Final Submission by the Responsible Authority

Sergeant Vasey confirmed that Sussex Police would contest the application if the decision is challenged. Sussex Police are looking to promote the licensing objectives and, if there are any further instances this will undermine the licensing objectives.

Final Submission by the Applicant's Representative

The Applicant's Representative reiterated that the premises did not sell the type of alcohol which was found in the toilets. Police need to assess the witness's credibility as the drink was smuggled in.

He reiterated that a member of the intoxicated girl's family were asked to contact the ambulance. Mr. Arslan had taken appropriate action by stopping birthday party. He added that the Applicant did not serve anyone under age. Mr. Sipsoski is the Licence holder and DP and the application to transfer the licence was made on 18th January and, to date, has not yet been granted. The previous licence holder still owns that Licence. He confirmed that he is happy to get written confirmation.

Final Submission by the Senior Licensing Officer

For the benefit of the meeting, the Senior Licensing Officer referred to sections 37 to 38 of the Licensing Act to clarify the law with regard to the transfer of a licence.

The Panel adjourned again at 12.15 p.m. to consider the matter and returned to the meeting again at 12.30 p.m. to deliver their decision

RESOLVED

That the Panel is satisfied with the points raised by Sussex Police concerning the events on 12th January 2013 and that the Panel are concerned that the Applicant does not have effective control of the premises therefore undermining the two licensing objectives for the prevention of Crime and Disorder and the Protection of Children from Harm. Therefore it refuses to acknowledge the Temporary Event Notice due to take place on 16th February 2013.

The Panel will issue a Counter Notice for the event on 16th February 2013.

Chairman.