

5. SCRAP METAL DEALERS ACT 2013

REPORT OF: Lynne Standing
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Wards Affected: All
Key Decision No

Purpose Of Report

1. To inform the committee about the provisions of the Scrap Metal Dealers Act 2013.
2. The Scrap Metal Dealers Act 2013 will come into force on 1st October 2013. It allows local authorities to decide who should be licensed. Licences will be issued upon application and payment of a fee to mobile collectors of scrap metal and static sites. An offence is created of carrying on a business whilst unlicensed. The authority can consider representations about the suitability of an applicant. This report seeks a decision about who should determine such applications.

Recommendations

- 3.1 **Where an officer is minded to refuse a licence or there are objections to the grant of a licence under this act, determination should be undertaken by Licensing Sub Committee A.**
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Background

4. Metal theft has had a significant impact upon communities, business and local authorities across the UK. Co-ordinated action by a number of agencies including the police and the Environment Agency has been successful in reducing metal thefts since 2011. This work, undertaken with the industry, has relied upon a voluntary code. In 2012 a private members bill was taken through parliament resulting in the 2013 Act.
 - 4.1 The Scrap Metal Dealers Act 2013 replaces the previous registration system for scrap metal dealers under the Scrap Metal Dealers Act 1964. The definition of scrap metal dealers is extended so it now includes motor salvage operators. The Vehicles (Crime) Act 2001 is also replaced by the new Act.
 - 4.2 Previously Councils were required to register anyone who notifies them that they are operating as a scrap metal dealer. There is no fee involved. Similarly, but with a small fee, motor salvage operators (car breakers) had simply to register with the local authority.
 - 4.3 The 2013 Act gives councils the ability to refuse a licence to those not considered to be a suitable person to operate as a scrap metal dealer. This system is designed to bring the operating standards of a minority of dealers up to the standards of the majority of reputable dealers. It will provide an opportunity to ensure that those who have been operating illegally are no longer able to do so.

- 4.4 In order for anyone carry on a business as a scrap metal dealer they must have a licence. Trading without a licence is a criminal offence punishable on conviction with an unlimited fine. There are two types of licence
- Site Licence: All sites where a licensee carries on a scrap metal business have to be identified. Each site has to have a named site manager. The licence allows transport of scrap metal to and from sites in any local authority area.
 - Collector's Licence: The licensee can operate as a collector of scrap metal in the area of the issuing authority only. This type of licence allows dealers to collect scrap metal and take it to a registered site for disposal. If they wish to operate in another authority area they will have to be licensed by that authority as well. It does not authorise the licensee to operate from a site. Dealers can only have one type of licence within each authority area.
- 4.5 In Mid Sussex we currently have three sites and 8 collectors that will require a licence.
- 4.6 Section 3 of the Act states that a council must not issue a licence unless it is satisfied the applicant is a suitable person to carry on business as a scrap metal dealer. In the case of a partnership, the suitability of each of the partners needs to be established. In the case of a company, it means assessing the suitability of any directors, company secretaries or shadow directors. Details of the type of offences that are likely to be relevant are contained in Appendix A.
- 4.8 The 2013 Act requires applications to provide certain information, which includes full name, date of birth, address, company name, trading name of the business, address of the site, address of sites in other authority areas, bank account details, and any relevant conviction or enforcement action relating to the applicant. As well as all company directors or business partners anyone nominated as a site manager must provide these details as well. All applications must be accompanied by a fee.
- 4.9 Schedule 1 of the Act gives councils power to ask for further information as deemed relevant. As part of the application process the applicant will be asked to provide a Basic Disclosure Certificate of convictions (these were formerly CRB certificates).
- 4.10 Where an applicant is considered suitable to hold a scrap metal dealers licence, it is suggested that this will be granted through delegated authority at officer level.
- 4.11 In the event that an officer considers the applicant to be unsuitable or where an application attracts objections, it is recommended that a Licensing Hearing should be convened to determine the application. Refusal of a licence is subject to appeal at Magistrates Court.
- 4.12 Similar to our other enforcement approach it is recommended that a licensing sub committee holds the hearing as it would be very difficult to convene the full Licensing Committee at short notice.
- 4.13 The Environment Agency and Natural Resources Wales will maintain registers of Scrap Metal licences issued in England and Wales and Councils will be required to provide them with details of licences they have issued. The registers will be open to the public.

Policy Context

5. Under the Scrap Metal Dealer Act 2013 the Council has a duty to administer the regime, issue licences and check for compliance.

Financial Implications

6. None. The fees levied for a licence should cover the cost of administering the service. A schedule of fees will be approved by the Cabinet member for Health and Community.

Risk Management Implications

7. None from the recommendations identified in this report.

Equality and customer service implications

8. We are aware that some operators may have literacy problems. We will provide appropriate help and advice where required with application forms and record keeping.

Background Papers

Relevant offences

These are to be confirmed in Home Office Regulations which will be issued by the end of September 2013. The LGA anticipates, based on the explanatory notes to the Scrap metal Dealers Act 2013, that these will reflect other environmental permitting schemes and suggests the following as an *indicative* list:

- Control of Pollution (Amendment) Act 1989: Sections 1, 5 or 7(3)
- Customs and Excise Management Act 1979: Section 170 (for environmental/metal theft related offences only)
- Environment Act 1995: Section 110(2)
- Environmental Permitting Regulations 2007: Regulation 38
- Environmental Permitting Regulations 2010: Regulation 38
- Environmental Protection Act 1990: Sections 33 and 34
- Food and Environment Protection Act 1985: Section 9(1)
- Fraud Act 2006: Section 1 (for environmental/metal theft related offences only)
- Hazardous Waste (England and Wales) Regulations 2005
- Hazardous Waste (Wales) Regulations 2005
- Landfill (England and Wales) Regulations 2002
- Legal Aid, Sentencing and Punishment of Offenders Act 2012: Section 146
- Pollution Prevention and Control (England and Wales) Regulations 2000
- Proceeds of Crime Act 2002: Sections 327, 328, 330, 331 & 332 (for environmental/metal theft related offences only)
- Producer Responsibility Obligations (Packaging Waste) Regulations 2007
- Scrap Metal Dealers Act 1964 (for environmental/metal theft related offences only)
- Scrap Metal Dealers Act 2013
- Theft Act 1968: Sections 1, 8, 9, 10, 11, 17, 18, 22 & 25 (for environmental/metal theft related offences only)
- Transfrontier Shipment of Waste Regulations 1994
- Transfrontier Shipment of Waste Regulations 2007
- Vehicles (Crime) Act 2001: Part 1
- Waste Electrical and Electronic Equipment Regulations 2006
- Waste (England and Wales) Regulations 2011: Regulation 42
- Water Resources Act 1991: Section 85, 202 or 206

**Minutes of a Meeting of the Mid Sussex District Council Liquor
Licensing Panel held on Monday, 22nd April 2013
from 10:00 a.m. to 12:40 a.m.**

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

Officers in attendance: Franca Currall, Solicitor
Fiona Spears, Environmental Enforcement Officer
Sally Blades, Committee Co-Ordinator (PA to the Chairman of
the Council
Emma Balmforth, Member Services Officer

Also in attendance: Haywards Heath Golf Club

The Secretary to the Golf Club, the Applicant
Phillip Williams, Chairman of the Golf Club
Mrs Angela Higgins (Interested Party)
Dr David Sales (Interested Party)

Also Present: - Councillors Lea and Snowling (for the first application)

LS.31 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.32 APOLOGIES FOR ABSENCE

None.

LS.33 DECLARATIONS OF INTEREST

None.

**LS.34 APPLICATION FOR THE GRANT OF A PREMISES LICENCE – HAYWARDS
HEATH GOLF CLUB, HIGH BEECH LANE, HAYWARDS HEATH, RH16 1SL**

Fiona Spears, Environmental Enforcement Officer, introduced the report and outlined
the application. She explained the application sought a change in the hours for
playing live and recorded music and the sale of alcohol.

She clarified that, following consultation with the Environmental Protection Team, the
hours of licensable activity had been amended. She also informed the Panel that
conditions had been agreed with both Sussex Police and the Environmental
Protection Team.

The Environmental Enforcement Officer explained that there were 11 representations
from local residents who live in Roundwood Lane, which partially borders with the
golf course.

Submission by The Applicant

The Chairman of the Golf Club explained that the Club was a community based facility that had been in existence for 90 years and had been serving food and drink for most of that time. They had maintained good relationships with the Local Authority and local residents and could not recall receiving any complaints about noise disturbance. He informed Members that, when the Club had previously held outdoor events, local residents had always been informed.

He explained that they had done a comparison between the current terms of the licence and those applied for, and had agreed modest changes in opening hours and activities and highlighted that control and training staff had improved under the licence.

He added the licence applied for would give the Club greater flexibility in their activities, allowing them to invite other Clubs and non-members to use the facilities. He explained that they had lost 150 members in the last three years and from a cash flow perspective, this had resulted in a significant loss of income. He pointed out the application sought greater flexibility at a difficult time and that there was no intention to host large commercial ventures or change the shape or direction of the Club.

He explained that the lease on the Club lasted until 2022 and if the Club were to get into financial difficulty, then they may have to forfeit the land. He added that the current owners wanted to continue running the Club, but needed the additional cash flow.

Questions from the Panel

One Member referred to the change in the application from playing live music to recorded music and asked for clarification whether this was for dancing or disco events.

Another Member asked for clarification as to where the music would be played, indoors or outside, and requested that residents from Roundwood Lane be given a number to contact the Club in case of noise disturbance.

The Chairman referred to the agreement with Environmental Health for a limit of 12 music events a year. He also expressed concern about the ID check "Challenge 21" and asked this to be changed to "Challenge 25".

In response, the Applicant explained that the music was for dancing and reminded Members that under the agreement with Environmental Health music would be confined to the barn, which has double glazing and opens directly into the lounge.

He explained that any outside activity involving live or recorded music could only take place after a Temporary Event Notice had been agreed, and it was not the Club's intention to play music until 1:00 a.m. He agreed that a contact number would be provided for residents and explained that a personal licence holder would be available at every event. He added that five to six members of staff would be trained to become Personal Licence holders.

He confirmed that the application referred to an additional 12 live music events but each event would be subject to a Temporary Event Notice. He also confirmed that it was the Club's intention to adopt a "Challenge 25" policy.

Questions from an Interested Party

Mrs Higgins asked whether the Club intended to play music outside, and if so, where, and raised concerns about the noise from people in the north area of the club house in outside smoking areas.

In response, the Applicant confirmed that music events would be inside and if the Club wished to hold an outside event then they would need to seek a Temporary Event Notice.

The Chairman noted that some activities were not subject to a licence. The Assistant Solicitor to the Council clarified that the Club did not require a licence for activities up until 11:00pm and if the Club wanted to host live music after 11:00pm then they were required to apply for a Temporary Event Notice.

Questions from an Interested Party

Dr Sales explained that he had lived near the Club since 1988 and accepted that music events were infrequent. He explained that, although he was reassured that the Club did not intend to have music events, he expressed concern that the terms of the licence meant that this could change in the future. He also expressed concern about the inconsistency in the use of the terms “live” and “recorded” music and the ambiguity of the term “inside” and asked whether this could include a tent. He noted that 1:00 a.m. was included in the application and requested clarification on the types and times of events.

He drew attention to Point (h) on page seven of the application that referred to “anything similar to events (e), (f) and (g)” and asked what would fall into this category. He expressed concern that this could give the Club scope to hold other activities in the future.

He asked how the Club was going to reconcile the current strict rules that apply to members with opening the Club up to events. He also asked how events would be monitored, for example how would the Club monitor any violation of the licence such as opening windows, and whether residents would be able to monitor the frequency of the events.

Response from the Applicant

The Applicant explained that the 1:00 a.m. timing was contained in the application to allow for occasional indoor events such as televised golf events and the Club would like to hold such events without having to apply for a Temporary Event Notice each time. He added they could hold up to 12 events on the premises each year and the Club was seeking flexibility to stage events primarily for its members.

The Chairman confirmed that indoor music events did not include the use of marquees, but did include televised golf matches.

The Applicant added that the licence application was a “catch-all” form and including point (h) would give the Club scope to do something bigger in the future. However, the Chairman of the Club stressed that members did not want the Club to change. He confirmed there was nothing currently planned and that they wanted to take the opportunity to generate more income, particularly around lunchtimes.

He further explained the Club had two controls. Firstly, their Constitution states that any changes have to be agreed by Members. Secondly, the lease agreement states that the character of the Club must be retained at all times. He also confirmed that the Club would be open to non-members by invitation only.

Response from the Panel

The Solicitor explained that residents would be given a contact number to contact the Club in the first instance. They could then contact Environmental Health if necessary. If the issue was not resolved, then an Abatement Notice could be served.

The Environmental Enforcement Officer explained that the Council's system would highlight when the quota of events was met. She explained that residents would not automatically be informed of events, but these events would be subject to a Temporary Event Notice allowing Residents to object if they wished to. In addition, applications would go through the Environmental Protection Team who would deal with noise issues.

The Solicitor advised the applicant to publicise Temporary Event Notices as much as possible.

Response from Interested Party

Dr Sales confirmed he was very reassured about what had been said regarding the licensing conditions.

Question from Members

One Member asked if there would be a change in hours for serving alcohol and how long the licence would last. He also asked whether events would include wedding receptions.

Response from the Panel

The Solicitor explained that the licence would need to be renewed every year and non-payment of the licence fee would result in the licence automatically being revoked. Conditions of the licence could be removed or varied at the review hearing.

Response from the Applicant

The Applicant confirmed there was no change to the hours for serving alcohol and events would include wedding receptions and that this already happened, but were carefully controlled and sponsored by a member of the Club.

Question from a Member

Another Member asked for the Applicant to clarify whether the barn and dining room were one room. He also asked whether Mrs Higgins' point about the smoking area generating a lot of noise had been formally noted.

Response of the Applicant

The Applicant confirmed the barn and dining room were one room. He further explained that they had agreed with Environmental Health that the doors nearest to

Roundwood Lane would be closed by 10:00pm to encourage people to go to the back area of the club house.

Question from the Panel

One Member asked why “outdoors” had been included in the application if the events planned by the Club were televised sports indoors. He also asked that notices be placed in all outside areas near the Club requesting consideration for the local residents.

Response from the Applicant

The Applicant explained that the application was a “catch-all” form and there was not the facility to specify indoors only. He also agreed to put up notices.

**The meeting was adjourned at 10:52 a.m. and re-convened
at 11:40 to deliver their decision**

RESOLVED

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

- (1) Live music events to be limited to the following hours: 1800 hrs to 2330 hrs Friday and Saturdays; 1800 hrs to 2300 hrs Sundays to Thursdays (applied for seasonal variations expected);
- (2) live and recorded music will only take place in the Barn/Dining Room;
- (3) no more than twelve live music events to be held in any calendar year;
- (4) no live or recorded music to be played in any outside area;
- (5) during live music and DJ type events, all external doors and windows to the barn/dining room and lounge areas to be kept shut after 2200 hrs other than for emergency access or egress;
- (6) the rear car park outside area not to be used as a smoking or drinking area after 2200;
- (7) no “bottling out” activities outside of the following hours: 0800 to 2000 hrs.
- (8) notices shall be displayed at all exits requesting customers to consider neighbours and keep noise to a minimum when outside and when leaving the premises;
- (9) all members of staff (including any member of staff who is re-employed having previously worked at the premises) will receive induction training regarding the responsible sale of alcohol before being permitted to sell alcohol. All staff involved in the sale of alcohol shall be reminded of their obligations under the Licensing Act (and in particular not to sell alcohol to persons under 18 or to persons who are drunk) at least once every twelve weeks. All staff training shall be fully documented and copies of the training records made available to the Sussex Police on reasonable request;

- (10) the premises will adopt a “Challenge 25” policy whereby any persons attempting to buy alcohol who appears to be under 25 will be asked for photographic ID as proof of their age. The only ID that will be accepted are valid passports and UK driving licences with a photograph or proof of age cards bearing the ‘PASS’ mark hologram. The list of approved ID may be amended or revised with the prior written agreement of Sussex Police and the Licensing Authority without the need to amend the actual licence;
- (11) a written log shall be kept of all refusals to serve alcohol, refusals of entry to the premises and ejections from the premises. The Premises Licence Holder shall have responsibility for making sure that this log is properly maintained and available for inspection upon request from Sussex Police and the Local Authority. No drinking vessels are to be allowed off the premises after 23:00 hours.
- (12) a documented risk assessment must be written and agreed by Sussex Police, which identifies the activities undertaken at the premises and the controls necessary to promote the licensing objectives. This will include when Polycarbonate drink vessels will be used both externally and internally. It will include written emendations demonstrating what considerations have been made for any additional special events which may arise during the year. This document shall be immediately available for inspection by the Police and the Licensing Authority, upon request; and
- (13) any event booked by a non-member of the Club, the manager or a personal licence holder must be on site for the duration of the event.

LS.35 APPLICATION FOR THE GRANT OF A PREMISES LICENCE – ARDINGLY COLLEGE, COLLEGE ROAD, ARDINGLY, WEST SUSSEX, RH17 6SQ

The meeting commenced at 11:50.

Fiona Spears, Environmental Enforcement Officer, introduced the report and outlined the application.

She explained that Ardingly College already has a licence and holds a small number of hospitality and fundraising events. She confirmed there were no changes to the hours of licensable activity, but the licence sought the addition of three venues; the Headmasters Field, Goodwin Hall and the Art Gallery. She reminded Members that licensed events in marquees were limited to five a year and it was recommended that this condition form part of the new licence.

She also explained there had been seven representations from local residents, who, in general, objected to the application on the basis that the College was an educational establishment and that this was incompatible with the sale of alcohol and entertainment and the noise on the premises.

Submission by The Applicant

Mr Sinfield confirmed the College was re-applying for the licence to include the three new venues. He explained the College wanted to hold events in the Headmasters Field, including a four day art festival. He added that the field was a larger site, further away from the local community, and its use would prevent damage to the cricket field. He explained that the College already hosted events in the Art Gallery, but guests were required to move to a different room for drinks. The College have

also applied for use of the Goodwin Hall should they wish to use this venue for hospitality in the future.

Response by the Panel

One Member noted that the application was a tidying up process. The Chairman clarified that the application made no changes to the current licence except the addition of the locations, which were further away from residents than the sites currently used by the College for events.

Submission from an Interested Party

Mrs Soper expressed concern that the new licence would enable the College to hold more than five events per year in the future. She highlighted the need for music events to be indoors with the windows closed and noise levels monitored. Mrs Soper also expressed concern that when guests left events they could trespass on residents' property and asked for confirmation that the College could police this. She explained her concerns were the levels of noise pollution, especially at night, and how people at events would be contained.

Response from the Applicant

Mr Sinfield confirmed that the College intended to only carry on doing what it had always done, but in new venues. He explained that the College had held a licence for two and a half years and had not received any complaints and had no intention of doing anything to upset residents. He added that at big events the College recruited security guards. He also explained that the number of outdoor events was limited and there were currently only three events booked and this was unlikely to change.

He also confirmed that, under the new licence, marquees would be moved to the back of the College, which would help reduce the risk of any noise pollution and that all events would finish by 10:00pm. He added that the current licence already allowed the College to hold events 365 days a year and only three events by external organisations had been booked. These events were in keeping with the College's position as an educational establishment and all other events would be run by the College.

Response from the Panel

The Chairman reassured Dr and Mrs Soper that there were no changes to the conditions of the current licence and that the College was only seeking to add three extra areas.

He requested that the ID check policy be changed to "Challenge 25" and that Mr Sinfield provide a contact number for residents in case of complaint.

He advised Dr and Mrs Soper that, if they had any concerns, they should contact Mr Sinfield in the first instance, then the Council if the matter was not resolved. He added that it was important for neighbours to continue to communicate well with each other.

**The meeting was adjourned at 12:15 a.m. and re-convened
at 12:35 to deliver their decision**

RESOLVED

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

- (1) CCTV to be installed in areas where licensable activities take place shall be in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System;
- (2) CCTV Images shall be retained for at least 28 days and except for mechanical breakdown beyond the control of the proprietor, shall be made available upon request to the police. Any breakdown or system failure will be notified to the police immediately and remedied as soon as practicable. It will be the responsibility of the DPS to ensure that any request from the police for a recording to be made for evidential purpose, is carried out as soon as possible;
- (3) staff will be fully trained in the provisions of the Licensing Act 2003 prior to making sales of any alcohol;
- (4) staff training will be refreshed at a minimum of 6 monthly intervals. All training shall be recorded and signed by the staff of the designated Premises Supervisor (DPS);
- (5) during a licensable event, all tables and surfaces shall be frequently cleared of glasses and bottles;
- (6) customers who appear under the age of 25 years, will have their ID checked and a recognised form of identification such as a passport, photo driving licence or an id card displaying the PASS logo will only be accepted;
- (7) all licensable activities shall cease least 20 minutes before the premises is closed to the public;
- (8) signs shall be prominently displayed through the premises reminding users of the facilities to be considerate of neighbours when leaving, and providing telephone numbers for local taxi companies;
- (9) there will be no more than five events during a calendar year in the Marquees; and
- (10) supply of Alcohol, Live Music, Recorded Music, Provision of Facilities for Dancing; New Year's Eve and Christmas Eve – 10:00 hours to 24:00 hours.

Chairman.

**Minutes of a Meeting of the Mid Sussex District Council Liquor
Licensing Panel held on Monday, 7th May 2013
from 2:20 p.m. to 5:30 p.m.**

Present: Councillors: First Application

Peter Reed (Chairman)
Ginny Heard
Bruce Forbes

Second Application

Bruce Forbes (Chairman)
Peter Reed
Bob Mainstone

Officers in attendance: Franca Currall, Solicitor
Paul Thornton, Senior Licensing Officer

Emma Balmforth, Member Services Officer

Also in attendance: Q.Ba

Mr Dean Austin, the Premises Licence Holder
Mr Richard Parry, the Premise Licence Holder's Legal Representative
Ms Sophie Bailey (Proposed Licence Holder)
Ms Sarah Palser (Proposed Licence Holder)
Mr Peter Savill (Counsel)
Jean Irving, Sussex Police Licensing and Safety Manager
Chief Inspector John Hull, District Commander, Mid Sussex
PC Phil King

Isla Espiral

Mr Oxlade, the Applicant

Also Present: - Councillor Jonathan Ash-Edwards (for the first application)

LS.36 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.37 APOLOGIES FOR ABSENCE

None.

LS.38 DECLARATIONS OF INTEREST

None.

LS.39 APPLICATION TO REVIEW A PREMISES LICENCE – Q.BA, 41 THE BROADWAY, HAYWARDS HEATH, RH16 3AS

Paul Thornton, Senior Licensing Officer, introduced the report and outlined the application. He informed Members that the premises were owned by Mr Dean Austin and Mr Graham Davies, but that Mr Davies was a sleeping partner who had not been involved in the business for the last three years. He explained that the application had been advertised from 20th March to 16th April and no further representations had been received. He also confirmed that all Responsible Authorities had been informed.

He explained the application to review the Premises Licence had been made by Sussex Police following a number of incidents at the premises involving drunkenness and assault that went back to 2011. He added that the Police had held three formal meetings with the Licence Holder to address their concerns and a minor variation to the licence had been approved in 2012, which amended and added a number of conditions to the licence.

He also informed Members that Sussex Police considered the management of the premises had failed to promote the licensing objectives of prevention of crime and disorder and public safety, and that standards were below that which were expected. He explained the Police requested that the licence be revoked to ensure a complete break with the current management, but as an alternative they would consider a suspension of the licence and a number of new licensing conditions, to include the removal of Mr Austin as the Licence Holder and Designated Premises Supervisor (DPS) and for any involvement of Mr Austin in the business to cease.

Submission by The Applicant

Mr Savill, Counsel to Sussex Police, reminded Members that the application should be dealt with as it stood and to consider the revocation of the licence or a lengthy suspension of the licence, although this was the least preferred option.

He explained that there was currently no application in place to transfer the licence away from Mr Austin, to change the DPS, or for anyone else to take over the licence. He suggested this was important because the Panel was not entitled to speculate about applications which have not been made, but could consider only what was in front of them today. He explained that this reinforced the argument for revoking the licence as there was nothing formal in place to allow for Mr Austin to cease being the Licence Holder or holder of the lease.

He added that this was a serious case. He informed Members that although the Police considered what happened in similar nearby premises to be irrelevant, in terms of problems and Police involvement, Q.Ba was head and shoulders above the rest. He explained that the issue was whether the licensing objectives were being promoted and that the drunkenness, abusive and violent behaviour at the premises meant they were not.

He further explained that over and above these points, there had been two allegations of breaches of the licensing conditions, one in February 2012 and one in August 2012, and that this was a criminal offence. There was also evidence that the premises had been used for the consumption of Class A drugs and that Mr Austin was facing serious criminal procedures in a matter not connected to the premises.

Mr Savill stated that it was the Police's view that the client base had been mishandled which had resulted in the premises acquiring an unfortunate reputation

that required the revocation of the licence in order to improve it. He explained that even if Mr Austin was removed, a lengthy suspension of the licence would still be necessary as the proposed new Licence Holders were inexperienced in running premises like Q.Ba.

He also reminded Members that the premises had required a disproportionate amount of Police time. He added it was not the role of the Police to run their business, but since 2011 there had been three formal meetings with the Licence Holder in order to try and get the premises back to promoting the licence objectives.

He also drew Members' attention to the S.182 guidance in the Licensing Act, and that the Panel should take such steps as appropriate for the interests of the wider community and not the individual interests of the Licence Holder. He explained the Panel were empowered to act even where the manager of the premises had done everything possible to promote the licensing objectives, although this was not necessarily the case in this instance. He added that the Panel should be concerned only with what promoted the licensing objectives and not the evidence as to whether criminal offences had been committed.

Mr Savill then referred to the Licence Holder's legal advisor's submissions to the Police application dated the 3rd May 2013, which went through a number of incidents at the premises.

He explained the incident of affray in 2011 on page two of the representations reinforced concerns about incidents on the premises. He explained that the incident had been serious, but that Police had not been called and that the Police could not have confidence in the management of the premises if they had not been called at such a time.

He added that the CCTV footage was poor quality, although there were a set of licensing conditions that dealt with CCTV maintenance. Furthermore, the premises were not closed after a Police request for voluntary closure and the Police viewed it as irresponsible of the management not to comply with a reasonable request.

He then referred to a number of other incidents outlined in the representations:

27th November 2011 on page three of the submission - Mr Savill noted that the response appeared to question the complaint because door staff acted appropriately. He explained that the behaviour on the premises undermined the licensing objectives.

21st January 2012 – he noted that the assailant admitted the incident was fuelled by alcohol and that taken in the context of drunken behaviour at the premises it was not surprising that the man became aggressive when drunk.

22 January 2012 - he noted that drunkenness was at the root of the issue. He explained that it did not matter whether alcohol was served face to face, but that the individual had either entered the premises drunk or had got drunk on the premises, and that staff should have been alert enough to recognise the issue.

29 January 2012 - he reiterated that it did not matter whether the individual had been served or not, that the man was drunk on the premises and staff should have been alert to the issue.

17th June 2012 – Mr Savill noted the individual concerned had been drinking since 5:00 p.m. but had been allowed to enter the premises.

22nd July 2012 – he explained that the Police were concerned because there had been a delay in calling them to the incident of GBH. He noted that the representations stated that the injury may not have been obvious, but explained that well managed premises would know if a person had been injured. He added that the delay in calling the Police and the fact that the crime scene had been swept did not give the Police confidence that they were called in openly when there were problems at the premises.

22nd October 2012 – he noted that this covered the same point that had been made previously, that a person was admitted to the premises drunk, or had been allowed to get drunk on the premises and that this was a particularly important point because of the violence that ensued.

11th November 2012 – in two separate incidents individuals had been ejected from the premises for drunk and disorderly behaviour and Mr Savill noted that such occurrences went with the reputation of the premises.

26 January 2013 – he noted that the incident involved serious violence and that drunkenness was again a feature.

10 March 2013 – he explained that although it was correct to say that this incident occurred across the road from Q.Ba, it had involved individuals from Q.Ba and showed that the clients were not contained.

Mr Savill explained that the remaining comments were on the proposed conditions and added that the conditions were only relevant if the Panel chose to suspend rather than revoke the licence. He explained each condition was appropriate because there was no track record for the proposed candidates taking over the licence and no application in place for the transfer of the DPS.

In relation to Body Worn Cameras, he explained that it was irrelevant whether the condition had been imposed on other premises in the area as the need at these premises had not arisen. He explained that the Police felt Body Worn Cameras were effective as a deterrent.

He clarified that the intention for training door staff was that the management of the premises would liaise with the Police and the Security team. There was no expectation that the Licence Holders would provide training themselves.

He explained that an extra member of door staff was considered necessary because if door staff went inside to deal with a problem then there would be no security left at the door. He added that as bar staff could not tell when a person was drunk, it was necessary to have someone on the premises who could.

He explained that the condition to have no new admissions after 12:00 a.m. was necessary because the later opening attracted individuals that had been drinking in other places, and this would be impeded with a 12:00 a.m. latest opening time. He noted that the representations stated latest opening should be 12:30 a.m. as this was in-line with other businesses in the area, but explained that what happened at other premises was irrelevant.

He noted that conditions D, F, G and H had been agreed with the Licence Holder.

Questions from the Panel

The Chairman asked why the Police had taken so long to take this action in view of the number of incidents over a long period of time and asked that the applicant expand on the comment that possible future candidates for the Licence Holder did not have a track record.

In response, Ms Jean Irving, explained that the Police had a good understanding of the balancing act between the local economy and people's safety and that they would do everything possible to work with the management. She explained that every time there had been a Police intervention the number of incidents on the premises decreased and that they had tried to keep the incidents low-level while the situation improved. She added that the Police had been aware of the seriousness of the problems and had been monitoring the situation. She informed Members that the Police had tried to get the premises to work but had reached a point where they felt nothing more could be done. She added that in retrospect she could accept the criticism regarding the length of time. The Chairman clarified that it was not a criticism.

Mr Savill explained that neither Ms Bailey nor Ms Palser had a Personal Licence and that both had yet to undergo BII training. He added that it was not a forgone conclusion that anyone sitting the exam would pass. He explained that Ms Palser had a background in accountancy and Ms Bailey ran a pub with her husband, but her husband was the DPS. He also noted that running a pub was very different to running premises such as Q.Ba. He reminded Members that the licence could not be used to sell alcohol until the proposed candidates had become Personal Licence Holders.

Submission from the Applicant

Chief Inspector John Hull, District Commander, Mid Sussex, explained why the application was important to him and his team. He explained he had been Chief Inspector since January 2012, that the objective of the team was to reduce crime and disorder and that the Police wanted Mid Sussex to be a safe environment, including a safe nighttime economy. He explained that he was concerned with the evidence that had already been outlined and reiterated that the delay in Police taking this action was because the Licensing Team had tried to work with the business. He added that the business needed to change in order to meet the licensing objectives and the Police took the issue very seriously.

Submission from the Representative of the Licence Holder

Mr Parry, the legal representative for the Licence Holder, explained that the licensing objectives could be achieved by a suspension of the licence and further conditions. He added that it was a proportionality issue and removing Mr Austin as the DPS and imposing further conditions was an alternative to revoking the licence.

He informed Members that Mr Austin realised the time had come for him to cease being the DPS and that Mr Austin had proposed two new Licence Holders. He explained that there were problems with the lease, which had been restrained under the Proceeds of Crime Act and could not be transferred, and that this, in addition to the Police application to revoke the licence, meant it would be difficult to find anyone else to take on the licence.

He suggested a period of suspension would be adequate and that the maximum suspension of three months was only appropriate if there was no offer to change the DPS and management of the premises. He reminded the Panel of the Home Office Guidance that states that Licensing Authorities should be alive to the issue of removing the DPS where problems are caused by the management. He added that the Police application centred on the poor management of the premises by Mr Austin.

He confirmed that Ms Bailey and Ms Palser were not currently Licence Holders, and explained they had their BII exam later in May 2013, so would be in a position to apply for the transfer of the licence later this month.

He explained that a period of suspension in order to promote the licensing objectives could be a weekend and that in this case a two week suspension would be sufficient to make a break with the current management. He added that a two week suspension also fitted with the proposed timescale of 21 days until the end of May at which point Ms Palser and Ms Bailey could apply for the licence to be transferred. Mr Austin would therefore have nothing more to do with the business from the end of May 2013.

He informed Members that revoking the licence would result in the premises being boarded up and that the proposed Licence Holders would not be in a position to pay the rent on empty premises as they only had start-up capital.

He explained that Police evidence referred to several complaints made against the door staff and how door staff had handled situations. He further explained that Coastal Security provided security for all late night premises on The Broadway and that the Licence Holders would not want to employ another firm as they would not be radio linked to other security. He noted there was no complaint from the Police against Coastal Services, although incidents involved them.

Mr Parry questioned the need for some of the proposed conditions, but added it could be a matter for further negotiation with the Police, such as the issue of training for staff being provided by the security team and whether a door policy available to all door staff meant the policy needed to be explained to and signed by staff. He added there was no real objection to any of the conditions in principle but further clarity was needed.

In relation to Body Worn Cameras, Mr Parry explained that this could present potential problems for the new Licence Holder over the image of the premises and that there were issues over the need to apply for a Data Protection Licence.

He explained that it would be possible to increase the number of door staff but added that this would have a financial impact and questioned whether it was proportionate.

In relation to the admissions policy, Mr Parry reminded Members that the premises currently opens until 12:45 a.m. and that a last admissions time of 12:30 a.m. would be in line with other premises in the area. Consequently, Q.Ba would no longer be opened later to attract customers from other businesses.

He confirmed that all other conditions had been agreed.

He suggested that it was the arrest of Mr Austin for a serious incident that caused the delay in the Police action. He explained that Mr Austin had gone to meetings with the Police, had supplied CCTV footage when requested, and had tried to do what

was necessary. He added that the alternative option proposed by the Police – a new DPS, suspension of the licence and new conditions, was proportionate.

He explained that Mr Austin was attending the Hearing today only because of the dramatic impact that revoking the licence would have on his parents because they were the guarantors of the lease and that Mr Austin no longer had any interest in being involved in the business.

He added that it would be better to remove Mr Austin as DPS by the end of May, than to keep Mr Austin in place during an appeal process.

Questions from the Panel

One Member asked what the relationship was between Ms Palser and Mr Austin and in what capacity Ms Palser attended the meeting at the police station. The Member also asked whether Ms Bailey and Mr Austin knew each other.

Mr Parry confirmed that Ms Palser, Ms Bailey and Mr Austin knew each other. He explained that given the current situation and that the lease is restrained it would have been difficult for Mr Austin to find someone not known to him to take over the premises.

The Chairman asked for clarification on whether Mr Austin would continue to be the lease holder if he was removed as the DPS.

Mr Parry confirmed this would be the case as the lease was restrained. He explained that if the Police agreed, the lease could be sold or transferred, but suggested that the Police would want to keep the lease under review because the value was not clear. He added that the lease was restrained by the South East Regional Crime Squad not Sussex Police.

The Chairman expressed concern that it was the culture of the organisation, not only the management that was an issue. He asked whether staff would be replaced and added that a complete change of personnel was needed. He also asked how often staff training was carried out and if records were kept.

Mr Parry explained the intention was to make changes to the staff but this would be difficult to achieve immediately as new staff would need to be recruited. Mr Austin confirmed that staff training took place every eight weeks and signed records were kept.

Another Member queried the timescales outlined by Mr Parry and asked how much time would be needed to transfer a licence.

The Senior Licensing Officer explained there is a period of 14 days, during which the Police can object to the transfer of a licence or the change to the DPS.

Mr Parry explained it was anticipated that within the 14 days the premises licence could be suspended, Mr Austin could be removed as DPS and Ms Palser and Ms Bailey could put in a licence application.

One Member commented that Q.Ba attracted individuals who were already drunk and that such individuals should not be allowed on the premises and noted there had been 14 incidents with the Police.

Mr Parry explained that it could be difficult to identify if a person is drunk. He agreed that that staff should be trained and explained that there was evidence that door staff did eject individuals and refuse entry.

One Member asked Ms Palser to clarify her relationship with Mr Austin and her involvement with Q.Ba.

Ms Palser explained that she had a business relationship with Mr Austin and had gone to the meeting at the police station to provide support. She confirmed that she was not involved in the running of the business, only with the financial systems.

The Chairman asked Ms Bailey and Ms Palser to explain their experience.

Ms Bailey explained that her background was in business development, and she looked how to change businesses, working in partnership with others. She explained that she successfully ran a pub with her husband, that her role involved marketing and advertising, and that she had changed the overall atmosphere of the business. She added that this is what she would look to bring to Q.Ba. When asked how she would change Q.Ba, she explained that she agreed with everything that had already been said and that the staff and reputation of the premises needed to change. She explained that this would be a gradual process working with the Police and Licensing Authorities. Changes would include serving food, having an early entry and involving the local community more.

Ms Palser confirmed that she currently had an administrative role at Q.Ba and had previously owned a catering company. When asked what her role would be as the Licence Holder, she explained that she would be more involved in the day-to-day running of the business and would be the main liaison with staff and suppliers.

Questions from the Applicant

Mr Savill asked Ms Bailey and Ms Palser a number of questions. He asked them to confirm who the directors and Licence Holders were for Haywards Heath Leisure Ltd, what their involvement was with Mr Austin, when they agreed to take over the licence, if there was a contract or agreement in place, and if they had they discussed money. He also asked Ms Palser to expand on her explanation of her accountancy role.

Ms Bailey and Ms Palser both confirmed they knew Mr Austin and that they were the only Directors and Licence Holders of Haywards Heath Ltd. Ms Palser explained that she had known Mr Austin for a year and had met him at her son's 18th birthday party. She explained that she had worked for Mr Austin for about a year. She worked on a casual basis because Mr Austin needed help and she was keen to learn. She did not get paid, but did the job for experience.

Ms Bailey and Ms Palser explained they had agreed to take-over the licence fairly recently and that it would be difficult for someone else to take over the business. They explained they had conversations about taking over the business before the application to review the licence was made, but it had only recently been formalised. When asked if it was Mr Austin's idea that they took over, Ms Bailey explained not as such and that ideas had been bounced around. They confirmed there was no agreement or contract in place as yet and that they would pay the lease via Mr Austin as the lease was restrained, but they would consider taking over the lease if it ever became available for transfer.

Summing up by the Applicant

Mr Savill reminded the Panel that there was currently no application to transfer the DPS and that the proposed new Licence Holders were known by Mr Austin and did not have the experience to run premises such as Q.Ba. He explained that it would be wrong for the Panel to proceed on an assumption of applications as they could be delayed and did not always work out. He added that if the transfer proceeded with Ms Bailey and Ms Palser and it did not work out, then Mr Austin would remain in place as the DPS, with continued Police involvement.

He explained that excluding licencing activities was not an appropriate option for the Panel as the issue was with the management and not the licensable activities.

He explained that removing the DPS would not work if the DPS was the same person as the Licence Holder, as would be the case in this instance.

He noted that the Panel did have the power to suspend the licence but explained this was very firmly a second option for the Police as change could not happen if Mr Austin was still in the background of the business. If the Panel did chose suspension then this should be for a minimum of eight weeks in order to act as a deterrent, to draw a clear line between the past and the future, and to send a clear message to the clientele that drunken and violent behaviour was not acceptable.

He explained to the Panel that this left the option to revoke the licence.

Summing up by the Representative of the Interested Party

Mr Parry reminded the Panel that under S.52 (4) of the Licensing Act, the Panel had the power to suspend the licence. He invited the Panel to suspend the licence for two weeks which he considered to be a proportionate, to add modified licencing conditions that were clear, appropriate and reasonable, and to remove Mr Austin as the DPS.

He added that all the changes would take place within 21 days, to the 28th May, at which point Ms Palser and Ms Bailey should have personal licences and be able to apply for a transfer of the licence. He explained that these changes would meet the licensing conditions in this situation and added that Ms Bailey was likely to be the DPS as she had more experience.

He explained that revoking the licence was appropriate with premises that attracted disorder regardless of the management, but in these circumstances removal of the management was appropriate and proportionate.

**The meeting was adjourned at 3:50 p.m. and re-convened
at 4:35 p.m. to deliver their decision**

RESOLVED

The Sub Committee is of the view that the premises licence for the Q.Ba should be revoked for the following reasons:

- (1) the Licensing Objectives of the prevention of crime and disorder and public safety have been seriously undermined by the catalogue of incidents at the premises for a considerable period of time;
- (2) there is no application for the transfer of the Premises Licence or Designated Premises Supervisor;
- (3) the removal of Mr Austin as DPS would not resolve the situation as he would remain the Licence Holder and the Leaseholder of the premises. Therefore he would continue to have an involvement with the premises; and
- (4) the failure of the management to promote the Licensing Objectives means that the management of the premises has fallen seriously below what is expected.

The Decision Letter which will be sent within the next 5 working days will expand on the above reasons for the revocation of the premises licence.

Meeting commenced at 4:50 p.m.

LS.40 APPLICATION FOR THE GRANT OF A PREMISES LICENCE – ISLA ESPIRAL, 47 STATION ROAD, BURGESS HILL, WEST SUSSEX RH15 9DE

The Senior Licensing Officer introduced the report and outlined the application. He drew Members' attention to the hours for the supply of alcohol at the bottom of page 30 of the report and confirmed that this had no relation to the report and should be deleted. He explained the application sought a change in the use of the premises, and the applicant intended the premises to be a restaurant with a takeaway facility.

He informed Members that the statutory consultations had been completed and after consultation the licencing conditions had been agreed with both Sussex Police and the Environmental Protection Team.

He explained there had been two representations from local residents who had expressed concern about noise and disturbances on the premises. He explained that Mr Stuart, the representative from Wolstonbury Court Tenants Association, no longer had any objections to the application following the agreed licencing conditions. He also explained that Mrs Mills had informed him verbally that she no longer had concerns regarding the application, but he had not received any documentation to confirm this.

Questions from the Panel

In response to a question from the Chairman, the Senior Licencing Officer confirmed that takeaway customers could not be served a drink when waiting for their order and that drinks could only be served to customers in the restaurant. Mr Oxlade, the applicant, confirmed he agreed to this condition.

One Member asked how people eating outside met with the condition of closing doors and windows at 10:00 p.m.

The Senior Licencing Officer explained that the Council did not provide the licence for the outside area and that Mr Oxlade would need to apply separately to West Sussex County Council. He added that regulated entertainment would be inside the premises.

Submission from the Applicant

Mr Oxlade explained he had been concerned about the hours for supplying alcohol included in the report, but now understood it did not form part of the licence application.

He noted that the representations that had been received had largely been resolved. He informed Members that he wanted to provide a facility for Burgess Hill that was a safe and comfortable environment for all residents, including families. He added that the premises would predominantly be for eating, but he would like the option of serving alcoholic drinks with meals.

He explained that he was not applying to West Sussex County Council for a licence to cover the outside area of the premises. He also confirmed that he understood the limitations on the premises, including that the planning consent only allowed the premises to be open until 11:00 p.m. He confirmed he was happy to accept the Police conditions, which he considered to be sensible and reasonable and added that he may make a planning application to extend the opening hours at a future date. He confirmed there would be no Karaoke and explained that the business would be no different to other restaurants in the area and that he wanted the opportunity to trade on a level playing field.

**The meeting was adjourned at 5:05pm and re-convened
at 5:30pm to deliver their decision**

RESOLVED

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

- (1) CCTV cameras will be located internally to provide coverage of the premises as agreed in consultation with Sussex Police, and will include coverage of the bar and toilet areas, the main area of the premises and the access/egress points;
- (2) CCTV to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System. The system shall be capable of retaining images for a minimum of 28 days and, save for mechanical breakdown beyond the control of the Premises Licence Holder, facilities will be made available for officers from the local authority and Police to view and/or download playbacks of recordings upon reasonable request, provided that such requests are compliant with the Data Protection Act;
- (3) all staff members engaged, or to be engaged, in selling alcohol on the premises shall receive training in age-restricted sales: Induction training as to the lawful selling of age restricted products prior to the selling of such products, and verbal reinforcement/refresher training thereafter at intervals no less than 3 months apart with the date and time of the training recorded;
- (4) the premises will adopt a 'Challenge 25' policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for

photographic ID as proof of their age. The only ID that will be accepted are valid passports and UK driving licences with a photograph or proof of age cards bearing the 'PASS' mark hologram. The list of approved ID may be amended or revised with the prior written agreement of Sussex Police and the Licensing Authority without the need to amend the actual licence;

- (5) the Premises Licence Holder shall ensure that the premises actively partake in any local "Pub Watch" scheme or similar and will ensure that the premises are run in accordance with any initiative adopted by such organisation;
- (6) a written log shall be kept of all refusals to serve alcohol, refusals of entry to the premises and ejections from the premises. The Premises Licence Holder shall have responsibility for making sure that this log is properly maintained and available for inspection upon request to Sussex Police and the Local Authority;
- (7) bottles (whether opened or unopened), glasses, tins and other beverage containers shall not be permitted to be taken off the premises by customers;
- (8) the sale, supply and consumption of alcohol shall be restricted to patrons partaking of a table meal or waiting for a booked table;
- (9) alcohol will only be served to customers by waitress or waiter service;
- (10) no entry to new customers after 2300 hours;
- (11) take-away service to be delivery only after 2300 hours;
- (12) no deliveries or collections of alcoholic beverages outside of the following hours: 0800 to 2000hrs Monday to Saturdays; 0900 to 1800 Sundays and Bank/Public Holidays;
- (13) no bottling out activities outside of the following hours: 0800 to 2000hrs Monday to Saturdays; 0900 to 1800 Sundays and Bank/Public Holidays;
- (14) all external doors and windows to be kept shut after 2200 hrs other than for access or egress;
- (15) notices shall be displayed at all exits requesting customers to consider neighbours and keep noise to a minimum when outside and when leaving the premises;
- (16) no karaoke activities on the premises at any time; and
- (17) no new customers to be admitted after 2300 hours. This includes customers for takeaway service.

Chairman.

**Minutes of a Meeting of the Mid Sussex District Council Liquor
Licensing Panel held on Monday, 17th June 2013
from 10.00 a.m. to 10.46 a.m.**

Present: Councillors: Richard Goddard (Chairman)
Ginny Heard
Bob Mainstone

Officers in attendance: Franca Currall, Solicitor
Paul Thornton, Senior Licensing Officer

Sally Blades, Committee Co-Ordinator (PA to the Chairman of the Council)

Also in attendance: Paolo Musumeci, Restaurant Owner
Morris Hunt, Local Resident
B. Smith, Architect

Also Present: - Councillor Mandy Thomas-Atkin.

LS.1 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.1 APOLOGIES FOR ABSENCE

None.

LS.3 DECLARATIONS OF INTEREST

Councillor Heard disclosed that she had met the applicant the day before and had spoken to him.

LS.4 APPLICATION TO VARY A PREMISES LICENCE – PAOLINO’S RESTAURANT, LINDFIELD

Paul Thornton, Senior Licensing Officer, introduced the report and outlined the application for the variation of the licence. He explained the history of the premises and pointed out that, in June 2008 when it became a restaurant, known then as Watson’s Brasserie, the Liquor Licensing Panel had imposed conditions to the licence.

He explained that the applicant seeks to amend two conditions, firstly to vary the premises licence to allow consumption of alcohol in the courtyard until 2000 hours and the removal of the Noise Management Policy.

He confirmed that a number of objections had been received on noise grounds. He also confirmed that no objections had been received from the Responsible Authorities. The Council’s Planning Department have confirmed that there are restrictions on the hours the courtyard can be used for the consumption of alcohol.

Submission by the Applicant

The Applicant confirmed that this is a family business bought in July 2012 and the intention is to give the customer a chance to eat outside 'el fresco' from Tuesday to Saturday. The restaurant is closed on a Sunday and Monday.

He confirmed that staff training has been given and there is no intention to install patio heaters. He also confirmed that he works very closely with the local authority. There would be no more than 25 people at any one time and there would be no drunks. The rubbish is cleared promptly and a notice will be displayed asking patrons to respect neighbours with regard to noise.

Submission by a Supporter of the Applicant

Mr. Hunt, a nearby resident, confirmed that he had no financial interest in the business and he had not been asked by the applicant to speak on his behalf.

He added that the restaurant is well managed and customers always receive a warm welcome on arrival. To his knowledge there are or never has been any problems at the restaurant and if the application is granted the extension would only be to 2000 hours, no later.

He added that over the past three evenings he had conducted his own traffic survey at various times and had paced out the distance from a table on the terrace nearest to the road and wall of nearby houses. In total this was 43 paces and, in his opinion, he doubted if any conversation could be heard across the road and any environmental impact would be minimal.

Questions from Members of the Panel

In response to question from a Member who asked if he ever received any complaints, the Applicant replied no. She then asked what type of music/entertainment is played at the premises. The Applicant confirmed that it was just background music and reiterated that it is a family restaurant which provides an environment where people can enjoy a meal. There is no drunkenness. It is a family run business which has generated a good name for itself and serves good food and there is a good ambience.

Another Member asked the Applicant what he considers to be a busy time. The Applicant said it is generally between 7.00 p.m. to 8.00 p.m., it depends on the days. Weekends are very busy. 5.30 p.m. to 6.00 p.m. is family time.

In response to another question from a Member who asked if customers wanted to use the outside, have to eat. The Applicant confirmed that customers can smoke and sit outside. He is more than happy to supervise the use of this area. He also explained that the tables stay outside as they are heavy and there has never been any problems with this arrangement.

Response from the Applicant

The Architect explained that there had been practical problems with the tables and chairs and explained the reasoning behind leaving them outside permanently. He added it is an advantage to keep more control and because there is no noise from the chairs because of their weight, they don't rock about.

**The meeting adjourned at 10.25 a.m. to consider the application
and reconvened at 10:42 to deliver their decision**

The Chairman announced that the variation to the Premises Licence be granted, subject to the conditions shown below.

He suggested to the Applicant that it may be beneficial to all concerned if he display notices asking for consideration to be shown to the neighbours of the premises when sitting out on the patio area.

RESOLVED

That the Licensing Panel grants the application to vary a Premises Licence, subject to the following:-

1. Removal of the condition relating to a Noise Management Policy; and
2. In respect of the condition regarding the consumption of alcohol: delete "1700 hours" and replace with "2000 hours".

Chairman.

**Minutes of a Meeting of the Mid Sussex District Council Liquor
Licensing Panel held on Thursday, 11th July 2013
from 10.00 a.m. to 11:05 a.m.**

Present: Councillors: Bruce Forbes (Chairman)
Kathleen Dumbovic
Richard Goddard

Officers in attendance: Mei Chiu, Solicitor
Fiona Spears, Licensing Officer
Paul Thornton, Senior Licensing Officer

Emma Balmforth, Member Services Officer

Also in attendance: Simon Curtis (Interested Party)
Graham Wild (Interested Party)
John Storey-Tennant, General Manager (Applicant)
Darryl Keets, Area Manager (Applicant)
Geoff Morris, Chairman of EGSS Trustees

LS.5 SUBSTITUTES AT MEETINGS OF COMMITTEES ETC. - PROCEDURE RULE 4

The Panel noted that Councillor Dumbovic had been appointed to replace Councillor Mainstone in accordance with Council Procedure Rule 4 – Substitutes at Meetings of Committees.

LS.6 APOLOGIES FOR ABSENCE

Apologies were received from Councillor Mainstone.

LS.7 DECLARATIONS OF INTEREST

None.

**LS.8 APPLICATION TO GRANT A PREMISES LICENCE – EAST GRINSTEAD
SPORTS CLUB, SAINTS HILL ROAD, EAST GRINSTEAD, RH19 4JU**

Fiona Spears, Environmental Enforcement Officer, introduced the report. She explained to the Panel that the Sports Club already had a Premises Licence that covered activities inside the Club, and that the applicants were seeking a new licence to include additional licensable activities. She added that there would be no change to the hours for the sale of alcohol and that the applicants had agreed to a number of licensing conditions.

Submission by the Applicant.

Mr Storey-Tennant explained that they were seeking a new premises licence to increase the licensable activities held by the Club. He explained the two main changes to the licence would be the sale of alcohol outdoors, which would be limited to 15 days per year, and the types of activities that the Club could hold indoors, which would include plays and dance performances as well as boxing and wrestling

matches. He added that the boxing and wrestling would be limited to 6 times per year.

He explained to the Panel that the Club had consulted with the Police and Environmental Protection Officers and that further conditions to the new licence had been agreed to promote the licensing objectives. He also explained that the Club holds a discussion group with local residents on a quarterly basis and that the Club had changed the application in response to concerns raised at these meetings.

He further explained that the Club had taken a number of steps to mitigate the noise levels and this was acknowledged by the residents present at the hearing. He outlined how the Club had addressed the main areas of concern. The sale of alcohol would be limited and there would be no extension to the hours that alcohol could be sold, the Club would not open later than already permitted, boxing and wrestling activities would be limited to 6 matches per year, and there were already strict controls on the use of an outside PA system with the hours reduced from 23:00 to 19:00 hours. He also explained there had been a misunderstanding in relation to the use of marquees and the outdoor marquees are not intended for live music.

Questions from the Panel.

The Chairman asked whether neighbours were able to report any complaints to the Club about noise levels and asked for clarification about the time the external balcony doors closed and the vacation of the balcony areas and queried the enforcement of the condition.

In response, Mr Storey-Tennant explained that the Club had already provided residents with the telephone number for the duty manager, who carried the phone at all times. He also explained that the external balcony doors would be closed at 23:00 hours and that people would be vacated and the area would not be used after this time. The doors would be shut and it was offered that the condition could be amended for clarity.

Questions from Interested Parties

Mr Wild expressed concern about the noise levels, particularly the noise from customers at night and music from live bands. He asked how the noise levels could be kept to a minimum and for clarification about the times the windows and doors would be closed.

In response, Mr Storey-Tennant explained that the windows and doors would be closed at 19:00 hours, although customers could continue to use the doors for access until 23:00 hours after which they would be vacated and the doors would be locked and no longer used.

Mr Wild asked whether it would be possible to set the volume of the music so a certain level could not be exceeded. The Chairman suggested that this would be too difficult to achieve with live music. Mr Storey-Tennant added that the Club had installed new double glazing, which should reduce the noise. He also explained that the majority of live music would be held inside the sports hall, which would be further away from residents.

Mr Curtis expressed concern about the use of marquees, especially over hard surfaces, which would enable sound to travel, and stated that this would not be

reasonable late at night. He asked whether restrictions could be added to the licence to prevent this.

Mr Storey-Tennant confirmed that marquees would not be used on the hard surface and they have no intention for there to be live music in the marquees and volunteered it to be a condition within the licence to assure residents.

Paul Thornton, Senior Licensing Officer, explained to the Panel that under the Live Music Act, music that took place between 08:00 hours and 23:00 hours. to an audience of 200 or less was no longer a licensable activity and therefore conditions could only apply to music played after 23:00 hours or before 08:00 hours. He advised the Panel that any licensing conditions relating to live music should therefore not include time restrictions.

Questions from the Panel

The Chairman noted that the application did not include the sale of late night refreshments, including hot food and drink, after 23:00 hours and asked whether this was the applicants' intention. Mr Storey-Tennant explained that they thought that this had been included.

The Senior Licensing Officer explained that a new application would be needed for the sale of late night refreshments as this does not form part of the current application.

In response to a question from the Chairman, Mr Storey-Tennant explained that the opening times stated in the officers report was an error and the application had requested an opening time of 06:30 hours and this was for the use of the gym.

One Member asked the Officers whether the Council had received any formal complaints about the noise at the Club. The Environmental Protection Officer confirmed that the last complaint was made in October 2011. The Chairman suggested to the Interested Parties that if there were concerns about the noise levels then residents should contact Environmental Health Officers so the matter could be investigated.

Submissions from the Interested Parties

Both Interested Parties confirmed that they had spoken to the Applicant and their concerns related to noise during the evening. They acknowledged the Club had made things better and they could contact the Club if they had any issues. They advised that they were supportive of the Club for the community, but had objected due to their concerns about noise being disruptive. They confirmed they were content with the conditions and one Interested Party commented he wished the Licensing Authority to be able to listen to their concerns.

Summing up by the Applicant

Mr Morris explained that in response to complaints made by residents to a previous planning application, the Club had established quarterly meetings with residents and had made changes to the application in response to their concerns.

Mr Storey-Tennant added that there was a log book on reception so any complaints about noise could be recorded and properly dealt with and that the number of the duty manager would be circulated to residents who did not have it.

The Legal Officer sought clarification that the Applicants were volunteering and engaging with the Panel for additional conditions to be imposed as per their own suggestions to alleviate the Interest Parties concerns, and an amendment to the agreed condition with Environmental Health Team for clarification and enforcement purposes and additionally the restrictions to the licensable activities on an annual basis. The Applicants confirmed they were happy to accept these conditions.

The meeting adjourned at 10.35 a.m. to consider the application and reconvened at 11:00 to deliver their decision

The Chairman announced that the Premises Licence be granted, subject to the conditions shown below.

RESOLVED

That the Premises licence be granted subject to the following conditions: -

- (1) Sussex police to be informed 28 days in advance, where events with licensable activities are going to take place and likely to attract 500 or more people; or those of a nature that will require security to be employed for the duration of the event. Should the booking be made within the 28 day period, the Designated Premises Supervisor will contact Sussex Police licensing at the earliest opportunity who will then reserve the right to veto the booking being granted until a full risk assessment / event plan has been submitted and agreed with Sussex Police Licensing Team

The risk assessment / event plan must include

- a) Event plan
 - b) Event management structure
 - c) Event security plan
 - d) Major incident plan
- (2) No more than 4,999 persons (including staff and performers etc.) are allowed on the premises at any one time.
 - (3) SIA approved door supervisors will be employed at all events deemed as requiring security in the event risk assessment. When SIA door supervisors are employed these will be at a ratio of 2 for the first 100 people in attendance, with 1 door supervisor for each additional 100 people in attendance.
 - (4) Where required, car park attendants wearing fluorescent tabards and SIA qualified door supervisors will ensure effective dispersal of crowds from the site and will assist the police if requested to do so.
 - (5) Where boxing, wrestling or any similar sport takes place, for example judo, karate or other martial arts, there will be a clear distance of at least 2.5 meters between the ring and the first row of seating provided for spectators.
 - (6) Only plastic or toughened glass containers will be used for all outdoor events where consumption is likely to take place outside of the main building.
 - (7) When used, door supervisors will ensure that no bottles or glasses are removed from the premises.

- (8) 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.
- (9) Suitable and sufficient signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises.
- (10) The only form of ID that will be accepted are valid passports, driving licences with a photograph or Portman Group, Citizen card or validate proof of age cards bearing the "PASS" mark hologram.
- (11) 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.
- (12) All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act
- (13) 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 6 months.
- (14) All restricted sales training undertaken by staff members shall be fully documented and recorded.
- (15) 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. door supervisors will seek age verification where necessary and will have the right to refuse admission.
- (16) The sale of alcohol from outside bars will be limited to 15 days per year.
- (17) Live music will not be played in any external areas or marquees.
- (18) Licensed boxing and wrestling entertainment will take place on no more than 6 days per year.
- (19) All external doors and windows of the venue used during events shall be kept closed, other than during access and egress, after 1900 hrs.
- (20) All external balcony areas shall be vacated and closed by 2300 hrs and not used thereafter.
- (21) External public address systems shall not be used before 0900 hrs or after 1900 hrs, except on three days per calendar year at events notified to the Licensing Authority when they may be used to 2200 hrs.
- (22) Prominent, clear and legible notices shall be displayed at all exits requesting patrons and staff to leave the premises and area quietly.
- (23) Procedures for responding to noise complaints shall be established, if not already. Written records of noise complaints and action taken in response shall be kept and made available to officers from Mid Sussex District Council when requested.
- (24) All staff and hirers of the venue shall be made aware of the conditions of the licence in writing.

Chairman.