
13 January 2023

NOTE: There will be limited public access to observe the meeting. Those wishing to do so must reserve a seat by completing a [Registration Form](#) by 4pm on the working day prior to the meeting. Access is also available via a live stream thought the [Mid Sussex District Council's YouTube channel](#).

PLEASE NOTE START TIME OF MEETING

Dear Councillor,

A meeting of **LIQUOR LICENSING PANEL** will be held in the **COUNCIL CHAMBER** on **MONDAY, 23RD JANUARY, 2023 at 2.00 pm** when your attendance is requested.

Yours sincerely,
KATHRYN HALL
Chief Executive

A G E N D A

- | | Pages |
|---|---------|
| 1. To receive apologies for absence. | |
| 2. To receive Declarations of Interests from Members in respect of any matter on the Agenda. | |
| <p>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 decide 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.</p> | |
| 3. To confirm the Minutes of the previous meetings held on 14 November and 19 December 2022. | 3 - 20 |
| 4. Application for a New Premises Licence. | 21 - 58 |

Human Rights Act Implications

Licensing Act 2003

A licensing authority must carry out its function under the Licensing Act 2003 with a view of promoting the licensing objectives.

The Licensing objectives are:-

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

In carrying out its licensing functions a licensing authority must also have regard to:-

- (a) its licensing statement published under Section 5 of the Licensing Act 2003 (this may be viewed on the Mid Sussex District Council website);

and

- (b) any guidance issued by the Secretary of State under Section 182 of the Licensing Act (this may be viewed on the Department for Culture, Media and Sport website).

Members are asked to consider the human rights implications for both the licensee who has rights under Article 1 of the First Protocol, the Right to Property (which includes the licence); and the objectors who have rights under Article 8 to Respect for Private and Family Life, and Article 1 of the First Protocol, their right to enjoy peaceful use of their possessions.

To: **Members of Liquor Licensing Panel:** Councillors J Dabell, J Henwood and J Mockford

**Minutes of a meeting of Mid Sussex District Council Liquor Licensing Panel
held on 14th November, 2022
from 2.00 pm**

Present: Councillors: J Knight (Chairman)
J Henwood
S Smith

Officers in attendance: Paul Vickers, Solicitor
Jon Bryant, Senior Licensing Officer
Alison Hammond, Democratic Services Officer

Also in attendance: Robert Botkai, Solicitor for the Applicant
Simon Chalk, Applicant - Area Operations Manager
Craig Williams, Applicant - Regional Operations Manager
Rosanne Cox, Rosetree Estates
Megan Knight, Rosetree Estates
Terry Stanley, Democratic Services Officer
Lucinda Joyce, Senior Democratic Services Officer

LS.1 TO RECEIVE APOLOGIES FOR ABSENCE.

None.

LS.2 TO RECEIVE DECLARATIONS OF INTERESTS FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.

None.

LS.3 TO CONFIRM THE MINUTES OF THE PREVIOUS MEETING HELD ON 27 SEPTEMBER 2022.

The minutes of the meeting held on 27 September 2022 were agreed as a correct record and were signed by the Chairman.

LS.4 APPLICATION FOR A NEW PREMISES LICENCE.

Introduction and outline of the report

Jon Bryant, Senior Licensing Officer introduced the report for the Panel to determine an application for a Premises Licence pursuant to Section 17 Licensing Act 2003 made by Loungers UK Ltd for the grant of a Premises Licence at Unit E, Queens Walk, East Grinstead, RH19 4DW. Seven Interested Parties, who either live at or are connected to the flats had made representations on the grounds of the Prevention of Public Nuisance. The Panel were asked to determine the application in accordance with the Licensing Act 2003, MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.

The Senior Licensing Officer advised Loungers Ltd are a national chain with over 170 outlets and the application is for a café/bar at Unit E, one of the commercial units on the ground floor of a block of flats known as Elizabeth House on Queen's

Walk. He noted that two of the Interested Parties had withdrawn their representations following a meeting with Loungers Ltd where revised opening times were agreed. The initial application was for the supply of alcohol 10:00 – 23:59 hours Monday to Sunday, together with Late Night Refreshment 23:00 – 00:30 hours Monday to Sunday. The licensable activity was amended to the supply of alcohol on and off the premises Monday to Sunday 10:00- 23:00. Therefore the Panel were asked to disregard the representations in the report made by Anna Coster and Karen Offord. He confirmed the application had been correctly advertised at the site and in the East Grinstead Courier.

The Senior Licensing Officer summarised the unresolved representations made by the Interested Parties, reiterating that the opening hours had been amended since the representations had originally been received, not all of the Interested Parties had responded when notified of the revised hours. He highlighted that live and recorded music is not regulated entertainment and any issues for noise from live music or construction works would be dealt with under the relevant legislation by the Environment Protection Team. He advised the Panel to disregard any comments in the representations that were not relevant to the application, these included references to individuals' leases and comments that a bar would not be permitted under the flats, noise from building works, live music, and table and chairs outside the premises. As a Responsible Authority the Fire Service had been consulted but not made a representation. Following representations by the Police and Environmental Protection Team the applicant offered further conditions to address their comments and these have been agreed and were listed in Appendix 4. He highlighted a condition offered by the applicants if they did decide to have table and chairs outside the premises.

The relevant representations made by the Interested parties were:

Aaron McDonald was concerned that for those living in the flats above the premises the late serving of alcohol would cause problems of increased noise when customers enter and leave the premises. The amended hours did not resolve his concerns. Francois Conradie was also concerned with increased noise levels due to people gathering outside the premises, they advised they work shifts and has a daughter who is studying. They did not respond to the amended hours. Guy Morris noted he had been in long discussions with the Environmental Protection Team to ensure the businesses in the locality of Elizabeth House complied with the "quiet hours 11pm to 7am" when using the loading bays. He noted that he and a number of the residents had safety critical jobs which requires a good period of quality sleep, and the other businesses close to the flats closed at 7pm. He advised the amended hours did not address his original concerns. Julie Stacey works from home and her partner works shifts and lives directly above the door to the premises. She was concerned with the noise generated by people entering and leaving the premises and the design of Queens Walk amplifies any noise. Any noise generated by the premises will disturb both young and old residents. She also noted the potential impact of people smoking outside the premises on the residents of Elizabeth House. The Panel were advised that smoking is permitted in a public place. She advised the amended hours were not sufficient to address her concerns. Lucy Muggeridge lives on the side of the High Street and can hear when people leave, she works shifts for a public service. She believed granting the application would result in many people leaving the premises making lots of noise, and the residents will then make complaints and action will be taken. She made no response to amended hours. Mallesh Galli lives directly above the premises with his young family and advised he would be directly affected by any noise generated by people entering and leaving the premises. When responding to the new

amended hours, he advised any noise after 6pm was unacceptable, he works from home and the changes were not sufficient to resolve his representation.

Before Rosanne Cox made a representation on behalf of Megan Knight for Rosetree Estates, the Managing Agent for the Queens walk flats, the Senior Licensing Officer addressed the Panel. He highlighted that they had made reference to anti-social behaviour and residents paying to tidy up the grounds around the flats in their representation; licenced premises could not be held responsible for the actions of patrons after they have left their premises. These comments should be disregarded. The Panel were asked to determine the application in accordance with Section 18 of the Licensing Act 2003 (LA03), MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations. Relevant representation must address the four Licensing Objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. He highlighted several paragraphs of the Section 182 guidance: representations are relevant if they are about the likely effect of the grant of the application on the promotion of the licensing objectives; representations can support of or in objection to the application and a representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. The Local Authority had to decide if representations were frivolous or vexatious. He reiterated that the Committee was not there to review the current licence and each application was determined on a case-by-case basis. The final decision made by the Committee could be subject to appeal in the Magistrates Court by any party to the proceedings, and any decision by the Committee should be evidence based.

Members' Questions to the Senior Licensing Officer

The Chairman asked if the applicant had requested table and chairs outside the premises, the solicitor for the applicant advised he would respond in his representation. The Senior Licensing Officer confirmed the premises plan only defines an area inside the premises and the application was for the provision of alcohol both on and off the premises. Condition 9 covers the consumption of alcohol outside the premises and restricts consumption to people seated at tables and chairs. In response to query from Mrs Cox he confirmed the application did not cover the licensing of an outside space.

Robert Botkai, Solicitor for the Applicant

He thanked the Senior Licensing Officer for helping arrange a meeting with the residents of Elizabeth House. He noted that the recently opened Francisco Lounge in Haywards Heath is also part of their chain. A leaflet was handed out to all parties which demonstrated that the premises would be an informal café/bar. Their main business is breakfast and brunch, the evening trade is not their busiest time; they are not a late-night bar or live music venue. They encourage the outlets to engage with local communities and charities/groups providing a community facility with internet connection for patrons and they make a donation to local charities from their opening sales of hamburgers. He advised that at the meeting with the residents on 28 October the residents were informed the application did not include the venue hosting live late-night music, the meeting went well, and a number of residents withdrew their representations. He highlighted that there had been a lot of noise as they are trying to speed up works to open as soon as possible and recent noise had been caused by the installation of an acoustic ceiling which would reduce the transfer of noise to the flats above the premises; any noise from building works was irrelevant to the application. He apologised for any noise disturbance to the residents. He reiterated that the supply of alcohol would end at 11pm and Lounges

outlets were not the same type of facility as Wetherspoon's pubs. Lounges Ltd operate family orientated facilities, they are 80% restaurant and 20% bar and have toys and games for the families to use. They have not concluded negotiations with the landlord to use any outdoor space for tables and chairs; he commented that since Covid people do want to be able to sit outside. Conditions had been agreed that satisfied the representations from the Police and Environmental Protection Team and the late-night refreshments element had been removed. He advised there would be no regulated entertainment.

He went through the representations highlighting where information about the application and premises were incorrect. All outlets have logs to check the premises and keep them clean and tidy. Training will be provided for the 25 local staff who are to be recruited. Patrons can order food through staff or their App. He noted they are "a Food led family restaurant bar, with a sensible operating schedule, tailored to each premises. There would be no vertical drinking inside or outside. They are not a takeaway". He advised they had not been able to reach agreement with RoseTree Estates. The Panel decision must be evidence based.

Questions to the Mr Botkai

Mrs Cox advised she was acting on behalf of the residents of Queens Walk, and any documents issued by Rose Tree Estates did not state there would be live music at the premises. The residents were concerned with opening hours and the information online differed to that given by the Applicant. She asked for confirmation of the opening hours for the café/bar in Queens Walk. Mr Botkai advised each outlet had its own tailored opening hours and webpage. The Chairman advised the Panel would determine the opening hours.

Mrs Cox asked if it would be easy for the Managing Agents to work with Loungers Ltd in the future as a share occupier of the building, quarterly meetings had been suggested and would Loungers Ltd act on residents' concerns. Mr Botkai confirmed it was normal practice to hold quarterly meetings for the first year of an outlet's operation to resolve any teething problems and the meetings were normally well received. He was not aware of any of their outlets having had their licence reviewed.

A Member noted that some people regard smoking as a public nuisance, and with climate change and the increasing temperature, asked where patrons would smoke if there were no tables and chairs outside. Mr Botkai suggested a designated smoking area was not required as fewer people smoke; smoking is increasingly seen to be anti-social and is not expected to be an issue.

In response to a Member's question Mr Botkai advised the nearest food venue is opposite Unit E which has tables and chairs outside, and any outside seating areas at Lounges are designated non-smoking.

Mrs Rosanne Cox, Interested Party

Mrs Cox commented that people may congregate in doorways and asked how they will stop people drinking or smoking adjacent to the premises. She highlighted that any sound around Elizabeth House reverberates around the area and stated that residents have a right to enjoy a safe and quiet home. She noted that a refrigerated unit at the back of Iceland had to be relocated due to the noise at night. She asked the panel to be considerate of the residents when deciding the application and hours.

The Chairman advised the Panel had not predetermined the application.

The Chairman enquired about soundproofing at the premises. Mr Botkai confirmed the drilling into the ceiling to install an acoustic ceiling had caused a lot of noise and would be of great benefit to those living directly above. The recent noise would not be representative of the future noise levels at the premises, there will be low level background music.

Mr Botkai, summed up for the Applicants

He advised that he believed neither RoseTree Estates or the residents were opposed to the licence. It would be unusual for a restaurant to close before 11pm, and the conditions would protect the residents and show Lounges Ltd were taking their concerns seriously. With regard to the number of anti-social incidents the Police would advise if there had been any. Good operators with well trained staff will have a reducing effect on anti-social behaviour. They wanted to breathe life to an area without causing disturbance to the residents. They were happy for any outside area to be designated non-smoking, they would erect signage to advise patrons; it makes it more pleasant for their customers and the residents living above the premises. The outlets have games and toys for patrons to use and is not a live music bar. They wanted to open the premises using the revised operating hours and requested the Panel address the applicants before the end of the meeting if they want to change any conditions.

The Solicitor advised that the Members would retire to deliberate and asked the other attendees to the meeting to remain in the Council Chamber. The Members left the Chamber at 3.07 pm.

The Members returned to the Chamber at 3.15 pm.

The Chairman thanked all the attendees for their representations and advised they had checked the website for Lounge Ltd for the premises and asked them to correct it. He advised the Panel understood the residents' concerns. The application was reasonable and Lounges have appropriate steps. The decision of the Panel was to approve the application with an additional condition, suggested by Mr Botkai, that no smoking or vaping at any time be permitted outside the premises. The Applicants and the Senior Licensing Officer agreed to the extra condition.

RESOLVED

The application for a premises licence was approved with the following conditions:

1. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. Cameras are to cover all trading areas inside or outside of the premises.

The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

2. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer

copies of recent CCTV images or data with the absolute minimum of delay when requested.

3. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all staff likely to be involved in the sale or supply of alcohol will be trained to ask any patron attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form or method of identification that complies with any mandatory condition that may apply to this licence. Signage advertising the "Challenge" policy will be displayed in prominent locations in the premises and shall include the point of sale and the area where the alcohol is displayed, as a minimum.

4. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises

6. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the identity of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the Licensing Authority at all times whilst the premises are open. The record shall be reviewed and signed by the designated premises supervisor at intervals of no more than four weeks and retained by the licence holder for 12 months.

7. An incident log shall be kept at the premises and made available on request to an authorised officer of the Licensing Authority or the Police. It must be completed within 24 hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system, searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

8. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

9. The sale and supply of alcohol for consumption in any external trading area shall be restricted to alcohol consumed at tables and chairs.

10. The premises shall only operate as a café/bar. Waiter/waitress service will be available to patrons at all times.

11. The premises may remain open for the sale of alcohol and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

12. There must be no adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

13. All outside tables and chairs shall be rendered unusable after 2200 each day and brought inside the premises after 2300.

14. There shall be no vertical drinking at the premises.

15. SIA trained and licensed door supervisors shall be employed when a requirement is identified by the licence holder's risk assessment. The written risk assessment will be kept at the premises and made available for inspection upon request by officers of any responsible Authority.

16. 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 or drugs. Induction training must be completed prior to engaging in any sale of alcohol. Refresher training shall be conducted thereafter at intervals of no more than twelve (12) weeks (this may be verbally delivered). All restricted sales training undertaken by staff members shall be fully documented and signed by the employee and the DPS. All training records will be kept at the premises and shall be made immediately available upon request to the Local Authority Licensing Officers and Sussex Police Officers or Licensing staff.

17. The main entrance doors to the café/bar shall remain closed after 22:00 hours, except when used for access and egress. All other external windows and doors shall also remain closed after 22:00 hours, except when used in the event of an emergency.

18. No bottling out activities outside of the following hours: 08:00 to 20:00 hrs Monday to Saturday; 09:00 to 18:00 Sundays and Bank/Public Holidays.

19. Prominent notices shall be displayed close to the exit doors requesting patrons to have regard to neighbours and to leave the premises quickly and quietly.

20. The licence holder shall invite the local residents to a meeting to discuss any operational issues they may experience every three months during the 12-month period following the opening of the premise. The invitation shall be issued to the managing agents of the building of which the premises forms a part, Rose Tree Estates.

21. No smoking or vaping to be permitted at any time outside the premises.

The meeting finished at 3.16 pm

Chairman

This page is intentionally left blank

**Minutes of a meeting of Mid Sussex District Council Liquor Licensing Panel
held on Monday, 19th December, 2022
at 10.00 am**

Present: Councillors: N Webster (Chairman)
J Dabell
Anthea Lea

Officers in attendance: Paul Vickers, Solicitor to the Licensing Panel
Jon Bryant, Senior Licensing Officer
Alison Hammond, Democratic Services Officer

Also in attendance: Robin Langton, Applicant
Nick Semper, Applicant 's Agent
Amanda Daniels
John Daniels
Gesine Moss
Anita Batten
Sue Charlton
Angela Pope
Ellen Fisher, Democratic Services Officer
Lucinda Joyce, Senior Democratic Services Officer

The Chairman introduced the panel and officers to the applicants and Interested Parties.

LS.1 TO RECEIVE APOLOGIES FOR ABSENCE.

Apologies have been received from Cllr Mockford and Cllr Anthea Lea is substituting.

LS.2 TO RECEIVE DECLARATIONS OF INTERESTS FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.

None.

LS.3 TO CONFIRM MINUTES OF THE PREVIOUS MEETING OF THE LIQUOR LICENSING PANEL HELD ON 1 JULY 2022.

The minutes of the meeting held on 1 July 2022 were agreed as a correct record and were signed by the Chairman.

LS.4 APPLICATION FOR A NEW PREMISES LICENCE.

Introduction and outline of the report

Jon Bryant, Senior Licensing Officer introduced the report for the Panel to determine an application for a Premises Licence pursuant to Section 17 Licensing Act 2003 made by Mr Robin Langton, Managing Director of the Highweald Winery Wine Estate and noted that five members of the public who are also local residents, referred to as Interested Parties had made representations on the grounds of the Prevention of a Public Nuisance. The Panel were asked to determine the application in accordance with the Licensing Act 2003, MSDC Licensing Policy and

the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.

The Senior Licensing Officer advised that Highweald Wine Estate, off Deaks Lane, Ansty is set in approximately 100 acres with an onsite office/vineyard store building and winery. The application was to licence an area containing the Winery and the new shop/garden bar; the applicant intends that alcohol will be consumed in the shop/garden bar as tasting samples, as part of a planned tour of the vineyard and the provision of on and off sales. He highlighted that the tours do not constitute a licensable activity. The application seeks to supply alcohol, on and off the premises Monday to Sunday 11 am to 9pm, with the same opening hours. Due to issues advertising the application, an amendment and re-submission, the application was extended and concluded on 1 December 2022. The application was correctly advertised on site and in The Mid Sussex Times. 15 representations were received but not accepted as they did not address the licensing objectives; a further representation was also excluded for the same reason. Representations from five Interested Parties were relevant and all relate to the Prevention of a Public Nuisance; he confirmed that no representations have been received from the Responsible Authorities.

During the consultation period Mr Langton asked for additional information to be passed to the Interested Parties and offered to meet them: he confirmed there would be no piped or recorded music outside, they would not accept buses or coaches loud or raucous behaviour would not be accepted. Most clientele would be couples as they are a luxury brand and offer a high-end experience. The agent had confirmed to the Licensing Team that any music would be background music; the Officer noted that this would not be regulated entertainment. The high-end clientele would be low risk. To mitigate noise the applicant had planted some mature trees, and more would be planted along with some hedging, they offered two additional conditions which were listed in Appendix 10 and the email was in Appendix 2. The Panel were reminded that some information in the representations were not relevant to the applicant as they referred to: the operating hours and the certificate of lawful development, planning consents, highway matters, site access, the rural location of the site and potential light pollution. In determining the application, the Panel should only consider the relevant representations. A number of conditions have been agreed between the Police and the applicant, and the officer requested these are included along with the mandatory conditions if the Panel decide to approve the application.

The Senior Licensing Officer summarised the unresolved representations made by the Interested Parties all on the grounds of Preventing a Public Nuisance: Tim and Anita Batten, Mrs Batten has a medical condition that adversely affects her health and well-being which requires her to sleep in the afternoons/early evenings; she moved to the area as it was quiet. Mrs Daniels did not accept the mitigation measures put forward by the applicant.

The Senior Licensing Officer reiterated that parts of the representation by Mr Andrew Moss, Amanda Daniels and Angela Pope did not relate to the Licensing Objectives and the Panel should disregard them.

Mr Andrew Moss was concerned with the times for recycling, extended time for the of sale alcohol, and noise from the site from visitors / staff would travel to local properties. He would be represented by Mrs Gesine Moss. The officer noted that the performance of live and recorded music is not a regulated activity if they have a licence and there are fewer than 500 people in attendance. Any matters relating to

noise from music should be directed to the Environmental Protection Team (EPT) to investigate.

Sue Charlton and John Barrett live opposite the entrance to the vineyard and stated they would be affected by noise travelling to them from the site; they advised they already hear music from other local places, Whiteman's Green, Ansty and Hickstead.

Amanda Daniels was concerned that people drinking in the garden bar and the hiring of the garden bar with background music would cause excessive noise in a quiet area. Her husband has a medical condition which means he sleeps during the day. She noted they can hear the winery's generator and noise from Cuckfield, Ansty Social Club and Hickstead. She expressed particular concern over the time by which visitors would have to leave the site and the late time of operation as the area is quieter in the evening.

Angela Pope was concerned that in a rural location with little background noise, any noise from the garden bar (which has a roof terrace) would carry further. She had concerns with bottling and opening times. She thought notices to ask people to be considerate of local residents would not work.

The Panel were asked to determine the application in accordance with Section 18 of the Licensing Act 2003 (LA03), MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations. Relevant representations must address one of the four Licensing Objectives: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. He highlighted several paragraphs of the Section 182 guidance: representations are relevant if they are about the likely effect of the grant of the application on the promotion of the licensing objectives; representations can support or be in objection to the application and a representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. The Local Authority had to decide if representations were frivolous or vexatious. He reiterated that the Panel was not there to review the current licence and each application was determined on a case-by-case basis. The determination should be evidence based, justifiable as being appropriate to the licensing objectives and proportionate. The final decision made by the Committee could be subject to appeal in the Magistrates Court by any party to the proceedings, and any decision by the Committee should be evidence based.

He highlighted section 9.44 of the Home Office Guidance Issued Under Section 182 of the Licensing Act 2003: the licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination. The inclusion of the provision of recorded music in the application is an error as less than 500 people will be in attendance.

The Chairman highlighted that that consideration must be made of people's rights under the Human Rights Act 1998, the licensee has rights under the first protocol, and the objectors have rights under Articles 1 and 8. Some Interested Parties have protected characteristics, and these must be carefully considered under the Equality Act 2010.

Questions to the Senior Licensing Officer

Nick Semper, Applicant's Agent had no questions.

The Solicitor advised the Interested Parties of the procedure of the meeting, cross examination of the participants was not permissible and clarification of any points by the participants assists the panel in their determination of the application and any potential additional conditions.

Mrs Batten asked about the volume of non-amplified music. The Senior Licensing Officer reiterated that it was not relevant as the playing of recorded, live or amplified music is not a regulated activity if fewer than 500 people are present at the premises with a licence between 8am and 11pm. If unregulated music from a premises causes a statutory nuisance the Environmental Protection Team (EPT) should be contacted to investigate.

The Chairman confirmed any matters relating to unregulated music are not covered by the Liquor Licencing Panel and affected residents must make their concerns known to the correct department when it occurs. Applicants can put systems in place to record complaints and a contact person at the licenced premises be identified in order to receive complaints. The Senior Licensing Officer suggested a noise management plan could be in place to deal with noise issues and noted that the applicant had not yet addressed the attendees or the Panel.

Mrs Moss, representing Mr Andrew Moss queried why the licensed area was so large and not just for the shop/garden bar, why the Winery needed a licence and not the tasting room and enquired about Temporary Event Notices (TEN). The Senior Licensing Officer suggested the applicant would be better placed to answer her questions. However, he advised that a licence enables the consumption of alcohol on and off the premises. Premises Licenses and TENs are different activities. If no premises licence is held a person can apply for up to 20 TENs a year for a location, totalling 26 days, a person can apply for 50 notices a year.

Mrs Pope was also unclear of the process and questioned the scope of the licence sought, queried the intentions of the applicant noting the visitor shop had a maximum of 20 people on the tasting tour/garden bar. However, the email from the applicant noted a maximum of 60 people outside. She enquired if providing a venue for corporate hospitality would increase footfall, was concerned that excessive noise travels easily in a quiet environment and any licence should have appropriate conditions. The Senior Licensing Officer advised the applicant would answer some of her concerns in their representation and the application for the grant of a premises licence for the consumption of alcohol both on and off premises.

Members' Questions to the Senior Licensing Officer

The Members had no questions for the Senior Licensing Officer.

Nick Semper, Licensing Consultant for the Applicant

Nick Semper, Licensing Consultant for the applicant advised the winery was founded in 2015. Previously it was a working farm and the winery, which has won several trophies for their quality wine is not as intrusive as a farm. Currently they market their products through a third party and the licence will enable them to sell direct to the public through tours and tastings. To provide on and off sales the winery needs a licence. He confirmed there would be some entertaining in the garden, a maximum of 60 people, 11am to 9pm daily; it would not be regulated entertainment and would be *de minimis* by nature. He thanked the Senior Licensing Officer for sorting the non relevant representations, advised the Interested Parties must demonstrate that the Licensing Objectives would be impacted, and each applicant looked at on a case by case basis.

He noted there had been no representations from the Responsible Authorities. He advised wine tours, tasting and consumption of wine are not licensable activities, and disputed that the sale of alcohol would cause a public nuisance, reiterating it would be for a maximum of 60 people. The recycling times had been amended to 9 am until 9pm, and there would be no regulated entertainment at the site. He disputed that the scale and style of events at other locations which Interested Parties alleged to be audible were the same. With regards to the noise from the generator, there had been a farm on the site for a long time and the winery operation is quieter than a normal farm. He did not believe the application would cause a disproportionate and unreasonable adverse impact to a person living and working in the area. He confirmed all references to regulated music have been removed, no food other than canapes would be served, and these activities are not licensable. Mr Langton had written to all the Interested Parties confirming the Highweald Winery is a luxury brand, did not want to cause a public nuisance, offered a high-end experience and expect their clientele to respect the same.

They had provided additional information to the Senior Licensing Officer and the Interested Parties: the premises are surrounded by trees; 10 extra mature trees have been planted with plans to plant 30 more mature trees and 200ms of hedging to minimise noise escape from the site. He noted two extra conditions regarding noise from the site on page 34 of the agenda pack: no noise vibration to emanate from the site and they would turn down the music immediately at the request of the Police or EPT. He confirmed they were happy to develop a Noise Management Plan (NMP) and the Panel had to balance the ambitions of the applicant against the concerns of the neighbours. He advised “there was no evidence of public nuisance, just fear and speculation if the application is approved and the Licensing Act provided the means to remedy through review and that can be requested by anyone”. The process should be evidence based and they have a quality operation that has not and will not impact adversely on anyone.

Mr Langton added he was happy to develop and implement a NMP and wanted to be a good neighbour.

Questions to Mr Langton

Mrs Daniels queried Mr Semper’s comment that the vineyards operation was *de minimis* and if their licence was approved would their activities be greater/same as *de minimis*. Mr Semper advised the activities were described as *de minimis* to show the small scope and effect. There would be limited hours, a tight operating schedule, with a maximum of 60 for wine tasting, and a maximum of 20 for the tours and they would not be licensable activities.

Mrs Daniels expressed concern with the away days and hiring of the garden bar advertised on their website. She was concerned they would add to the noise levels and asked how many they would expect at these corporate events. Mr Langton confirmed the garden bar takes a maximum of 20 people, as it is small and the deck between 40 and 50 people, they are not expecting to host large corporate events. Their main activities will be the vineyard tours and tastings. They want to educate the public on the growing and production of their products and hope they will also buy when visiting the vineyard. Their web site had been updated and he confirmed “they would only do activities that fit the remit of the application”.

Mrs Pope thanked them for a comprehensive representation and advised the Interested Parties would have liked sight of the applicant’s representation before the meeting. She requested a copy of his representation. She asked why the

licence did not just cover the garden bar, and with the doors closed and sound insulation their concerns might be alleviated to some degree. She asked what noise management strategies they would propose for people outside. Mr Semper advised the NMP would be produced by a noise expert, and it will detail control measures necessary to prevent noise nuisance at the nearest premises. He could not advise what these measures were until the plan was complete. With normal good management, if are people making a lot of noise they will be warned or asked to leave. Mr Langton reiterated that they would not accept big groups or buses, and they sell a high-end wine. The tours will be managed, if there is another tour directly after one in progress there could be 40 visitors on the site. To mitigate sound the doors are double glazed, they have planted 4m mature trees with more trees and 1.4m hedges around the building, at significant cost. The vineyard and winery are part of the tour, and the licensable area is large as the wine is sold from the winery.

The Chairman asked how long it would take for a NMP to be in place and who would be in control of the tours. Mr Langton advised he had been the Chief Operating Officer at Ridgeview, running a similar operation; at no time were there any issues with noisy people. If visitors are out of order, they will be asked to leave. Mr Semper added that they use generic NMP and bespoke plans take about one month.

The Chairman advised they expect a specific NMP if the application is approved.

Mrs Pope expressed concern that they had not thought of developing a NMP prior to the meeting following receipt of all the representations. She had read that trees and hedgerows don't mitigate the transference of noise and act as acoustic barriers, they only help visually. She asked if they would consider restricting the licence to use of garden bar area with doors closed, reduce the hours and days, currently open 363 days and indoors; she also enquired where the wine sales would take place.

Mr Langton said their "proposed application was not unreasonable; they are happy to do a NMP to address her concerns and are not willing to amend the application as suggested". He confirmed the wine sales would be a small operation distributed from the winery and that would require additional activities and deliveries.

The Chair confirmed the recycling times had been amended to recycling 9am until 9 pm, and the NMP would be the responsibility of the Designated Premises Supervisor (DPS) as a condition of licence if it is approved. He noted that any business on that site would have deliveries to and from the site, whether a farm or winery and there would be extra traffic. He noted that the highway network was not a relevant matter in the application.

The Solicitor confirmed highway matters were not relevant to the Licensable activity and the Licensing Objectives.

Mrs Daniels asked how the applicant would deal with the noise generated by vehicles loading / unloading. Mr Semper advised the winery currently produces 250,000 bottles per annum and there would only be a change if the winery expanded its production.

The Chairman advised the noise of trucks unloading and bottles were not a licensing consideration.

Mrs Batten thought the licensing issue was a public nuisance with regard to noise from trucks and people. The Chairman confirmed it was a balancing act when dealing with the rights of applicant and the rights of the residents, and those with protected characteristics.

The Solicitor noted when dealing with the issue of a public nuisance, it is the likely effect of the granting of the licence that must be considered. If there is no licence to use the garden bar, the winery could still sell wine by selling through a third party, noise from trucks is not affected by the licensable activity. Noise nuisance is a separate matter and would be investigated by the EPT. If noise relates to the grant of a premises license, then the licence can be reviewed by the panel. All concerns raised relate to public nuisance, if license is not granted by the panel, all points raised re trucks, bottle noise trucks and use of site will still happen as not licensable activities.

In response to a question from Mrs Moss the Senior Licensing officer confirmed the licence application was specific to Mr Langton.

Mrs Moss queried what would happen if the winery was sold. The Senior Licensing officer confirmed if the winery was sold, the owner could transfer the licence over or Mr Langton could surrender his licence and new license could be applied for.

The Chairman requested information on exit times from the premises and how long after closing would they anticipate visitors remaining at the vineyard. Mt Langton confirmed they closing time had been revised from 11 pm to 9pm; there would be no tours in the last hour, and all visitors should have left by 9pm.

Mrs Gesine Moss representative of Mr Andrew Moss, Interested Party

Mrs Moss advised they live one field away from the vineyard and noted concerns with the long hours of operation at the site and bottling, noting some issues had been addressed to a degree. Their other concerns were the expansion from tours 3 days a week, noise of people arriving / leaving, and the staff would have little control over visitors as they can be noisier when they have had alcohol. They also expressed concern that the future format may change, fear of the unknown, but did appreciate it is a high-end operation. They highlighted the medical condition of their daughter.

Mr Langton advised they had a long-term business plan and suggested having ongoing dialogue and neighbourhood meetings.

The Chairman noted that there are a number of high-end vineries in the local area, all in rural quiet areas, and all valid concerns and would be considered.

Mrs Sue Charlton, Interested Party

Mrs Charlton advised she lives opposite the entrance, has a small farm and is aware of farm noise. Her recently diagnosed medical condition requires lots of rest.

Mr Langton noted that the driveway needs work and suggested adding sleeping policemen to reduce speed / noise.

Angela Pope, Interested Party

Mrs Pope asked the Panel to delay their decision until the NMP had been received. She was aware of the balancing act of the rights of the applicant and the neighbours. The previous farming activities on the site had been reasonable and the applicants proposed operation could be for 363 days a year.

The Chairman confirmed the Panel could agree conditions for the licence, can add additional conditions and when deliberating can agree an outcome based on the submission of an approved NMP.

Anita Batten, Interested Party

Mrs Batten reiterated that she needs to rest / sleep in the afternoon, and they moved to the area as it is quiet. Whiteman's Green is one mile away and they still hear noise from there through the trees. She also enquired how the staff could control the noise of visitors.

The Chairman noted that noise does travel, and some background noise is not always heard as people don't register it.

Mrs Amanda Daniels, Interested Party

Mrs Daniels expressed concerned on how the applicant would control noise of visitors and suggested not all local vineyards have residents living close by. She queried whether sleeping policeman were permitted on a public bridleway. Noise would be a greater nuisance as the area is quieter in the evening. She requested that they scale back their operating times. The use of the site as a vineyard has significantly increased when compared to the use as a farm.

The Solicitor confirmed that any concern needs to be evidence based, but conditions can be added to prevent a potential problem arising. The panel can add conditions to those already proposed or refuse the application.

Mr John Daniels, Interested Party

Mr Daniels noted they live 1km away and highlighted his medical condition, and how the effect of noise from the vineyard will disturb him and create a public nuisance. He confirmed he uses the bridleway on a regular basis as part of his normal daily activities. The area is quiet and peaceful, and more noise will be intrusive to him.

A Member stated the Interested Parties are fearful of the unknown, the vineyard will still be there tomorrow, and the applicant wants to make a small change to permit the sale and tasting of wine on the site in limited numbers. They appreciated the various health issues of the local residents, and the likelihood of extra noise when tours take place. If visitors are noisy the staff will ask them to leave.

Mrs Pope confirmed there is fear of future operations at the site, and the prevailing wind brings the sound to them and proximity to the noise source is critical.

The Chairman confirmed all their concerns had been noted and would be considered during the Panel's deliberations.

Mr Langton, Applicant summed up

He thanked everyone for attending and advised they would continue to work with their neighbours and the authority.

The Solicitor advised that the Members would retire to deliberate and asked the other attendees to the meeting to remain in the Council Chamber. The Members left the Chamber at 12.28 pm.

The Members returned to the Chamber at 12.52 pm.

The Chairman thanked all the attendees for their representations, and he advised the Panel understood the residents' concerns. He advised the panel must abide by the licensing regulations, have taken account of the equalities act and protected characteristics, and the rights of the business owners to earn a living. He recommended good communications, possibly by a WhatsApp group between the winery staff and the local residents, noting residents can make representations to the Council if the need arises in the future. The decision of the Panel was to approve the application with the additional conditions and subject to receipt of an agreed Noise Management Plan with Mid Sussex District Council.

RESOLVED

The application for a premises licence was approved with the following conditions:

Proposed Conditions: Conditions agreed by the applicant with Police

1. The premises will operate an age verification policy set at a minimum of 25 years, whereby any person attempting to buy alcohol who appears to be under the specified age will be asked for photographic ID to prove their age. Signage advertising the "Challenge" policy will be displayed in prominent locations in the premises and shall include the point of sale and the area where the alcohol is displayed, as a minimum.

2. 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 or drugs. Induction training must be completed prior to engaging in any sale of alcohol. Refresher training shall be conducted thereafter at intervals of no more than sixteen (16) weeks (this may be verbally delivered) All restricted sales training undertaken by staff members shall be fully documented and signed by the employee and a trustee member. All training records shall be made available upon request to an officer of a Responsibly Authority.

3. The premises shall at all times maintain and operate a sales refusals log and an incident log will be kept to record all refusals and incidents of crime or disorder. These shall be reviewed and signed by a trustee member at intervals of no more than four (4) weeks. Feedback shall be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises. These records shall be kept for a minimum of twenty-four (24) months and made available upon request to an officer of a Responsibly Authority.

4. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

a) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.

b) CCTV footage will be stored for a minimum of 31 days.

c)The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.

d)The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.

e) Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.

f) Any breakdown or system failure will be notified to the police immediately & remedied as soon as is practicable.

Conditions Proposed within the Applicants Operating Schedule

5.Customers will not be permitted to take open containers of alcohol from the Premises.

6.The number of persons allowed for on-site tastings or group tastings will be limited to a maximum of 20 persons.

7.Notices are displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.

8.Disposal of empty bottles into waste receptacles outside the premises will not be permitted to take place between the hours of 2100 hrs and 0900 hrs to minimise disturbance to nearby occupiers.

Conditions Additionally Proposed by the Applicant during the Consultation period

9.The Premises Licence Holder or DPS must immediately comply with any request to adjust noise levels/ frequency spectra made by an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or the Police

10.Noise or vibration shall not emanate from the premises so as to cause a nuisance.

11. Any licence is subject to the agreement of an appropriate Noise Management Plan with Mid Sussex District Council.

The meeting finished at 1.00 pm

Chairman

APPLICATION FOR A NEW PREMISES LICENCE

REPORT OF: Lucy Corrie, Assistant Director - Communities
Contact Officer: Jon Bryant, Senior Licensing Officer
Email: jon.bryant@midsussex.gov.uk Tel: 01444 477428
Wards Affected: Haywards Heath
Key Decision: No
Report To: Liquor Licensing Panel

Purpose of Report

- 1 To provide information in order that the Licensing Panel can determine an application for a Premises Licence.

Summary

- 2 An application, pursuant to Section 17 Licensing Act 2003, has been made by Mr Pakeerathan Sanmugalingham for the grant of a new Premises Licence at 42-44 America Lane, Haywards Heath RH16 3QB. One member of the public, referred to as an 'Interested Party' within the Act, has submitted a representation objecting to the application on the grounds of the Prevention of Public Nuisance. The Interested Party is a local resident.
 - 3 The Licensing Panel is asked to determine the application in accordance with the Licensing Act 2003, MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.
-

Background

- 4 42-44 America Lane is a commercial unit that is currently vacant which was previously occupied several years ago by McColls. There are residential flats above and it forms part of a local shopping parade. Mr Samugalinngham plans to open a One Stop store at these premises.
- 5 The application before the Panel is for the issue of a new Premises Licence permitting the sale of alcohol for consumption off the premises.
- 6 The applicant seeks the following licensable activities and timings:

Licensable Activity	Timings
Supply of Alcohol consumption Off Premises	Mon - Sun 06:00 – 23:00

- 7 The proposed opening hours of the premises will be:

Mon - Sun 06:00- 23:00

- 8 A Premises Licence has previously been issued for this location when it traded as McColls. This licence was surrendered when McColls relocated to 56A America Lane.
- 9 The current application was advertised at the site between 8th December 2022 to 4th January 2023 and in the Mid Sussex edition of The Argus on the 15th December 2022.
- 10 In total there were 2 representations received during the consultation period – one was not accepted as it did not address the licensing objectives.
- 11 The accepted representation has been received from a member of the public, referred to as an ‘Interested Party’, and did have relevance to the licensing objectives. The main relevant points raised within the representation relate to the licensing objective of the Prevention of a Public Nuisance.
- 12 It should be noted that no representations have been received from any of the Responsible Authorities including the Police or Environmental Protection Team.
- 13 The Panel should be aware when reading the full correspondence from the Interested Party that some of the information contained within their representation is not considered relevant within this type of application. These are the references within their initial email relating to matters such as the location of the premises, the need for the premises and the fact that there are other premises selling alcohol in the immediate vicinity. These comments should be disregarded when considering the representation. The Panel must focus on the relevant parts only when determining this application.
- 14 The Police have agreed conditions with the applicant and if the Panel decides to grant the licence, I would request that, in addition to the Mandatory conditions, the conditions offered in the operating schedule by the applicant and those agreed by the Police be attached to the licence. Full details are attached in the Appendix 5.

Representations

15 Interested Party Representation

Ian Habgood

Ian Habgood has made representations on the grounds of the Prevention of a Public Nuisance.

His original representation was not considered relevant however he subsequently re-submitted his representation stating

I believe the likely effect of granting and extending the hours of a 42-48 America Lane licence of 0600-2300 every day as opposed to the previous licensable hours of 0900-2200 everyday - which the previous business McColls operated under - would be an increase in noise pollution both late at night and early in morning from a mixture of anti-social behaviour and noise emanating from the premises and delivery vehicles.

His correspondence is attached at Appendix 4

Policy Context

16 Determination of Application for a Premises Licence

The Licensing Panel must determine the application in accordance with the Licensing Act 2003 (LA03), MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.

17 Section 18 LA03 deals with the determination of the application:

Grant of premises licence

18. Determination of application for premises licence

(1) This section applies where the relevant licensing authority—

(a) receives an application for a premises licence made in accordance with section 17, and

(b) is satisfied that the applicant has complied with any requirement imposed on him under subsection (5) of that section.

(2) Subject to subsection (3), the authority must grant the licence in accordance with the application subject only to—

(a) such conditions as are consistent with the operating schedule accompanying the application, and

(b) any conditions which must under section 19, 20 or 21 be included in the licence.

(3) Where relevant representations are made, the authority must—

(a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and

(b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

(4) The steps are—

(a) to grant the licence subject to—

(i) the conditions mentioned in subsection (2)(a) modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and

(ii) any condition which must under section 19, 20 or 21 be included in the licence;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;

(c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application.

(5) For the purposes of subsection (4)(a)(i) the conditions mentioned in subsection (2)(a) are modified if any of them is altered or omitted or any new condition is added.

(6) For the purposes of this section, “relevant representations” means representations which—

(a) are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives,

(b) meet the requirements of subsection (7),

(c) if they relate to the identity of the person named in the application as the proposed premises supervisor, meet the requirements of subsection (9), and

(d) are not excluded representations by virtue of section 32 (restriction on making representations following issue of provisional statement).

(7) The requirements of this subsection are—

(a) that the representations were made by a responsible authority or other person within the period prescribed under section 17(5)(c),

(b) that they have not been withdrawn, and

(c) in the case of representations made by a person who is not a responsible authority, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

18 Relevant Representations

The Licensing Act 2003 requires representations to address the four licensing Objectives which are

1. Prevention of Crime and Disorder
2. Promotion of Public Safety
3. Prevention of Public Nuisance
4. Prevention of Harm to children and young persons

19 A representation is a ‘relevant representation’ if it is about the likely effect of the grant of the licence on the promotion of the licensing objectives. The objector must establish that such a consequence is a *likely* effect of a grant - (ie more probable than not)

20 **Guidance Issued Under Section 182 of the Licensing Act 2003**

9.3

Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant, the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious. Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

9.4

A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives.

9.5

It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.

9.9

It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

9.37

As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but

they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

9.38

In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- Guidance issued under Section 182 Licensing Act 2003;
- its own statement of licensing policy.

9.42

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters.....The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Other Options Considered

- 21 In order to lawfully provide licensable activities as applied for, they must be conducted under the authority of a Premises Licence.

Financial Implications

- 22 The final decision made by the Licensing Panel in this matter is subject to appeal in the Magistrates Court by any party to the proceedings.

Risk Management Implications

23 None

Equality and Customer Service Implications

24 None

Other Material Implications

- 25 Section 136 Licensing Act 2003 – A person commits an offence if he carries on or attempts to carry a licensable activity on or from any premises otherwise, than under, and in accordance with an authorisation or he knowingly allows a licensable activity to be so carried on.
- 26 A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine or both.

Sustainability Implications

27 None

Background Papers

- Appendix 1 – Application Form and plan of premises
- Appendix 2 – Area plan
- Appendix 3 – Photos of location
- Appendix 4 – Representation – Ian Habgood
- Appendix 5 – Schedule of proposed conditions
- Appendix 6 – Licensing Panel – Procedure at hearings.

This page is intentionally left blank

Form Application for a premises licence

service_team_name Licensing Team

service_email_address licensing@midsussex.gov.uk

Your Details

Name/s: PAKEERATHAN SANMUGALINGAM

Premises

Postal address of premises or, if none, ordnance survey map reference or description:
ONE STOP
42-44 AMERICA LANE
HAYWARDS HEATH

Postcode RH16 3QB

Phone (at premises) 01282-500322

Email Email address redacted

Non-domestic rateable value of premises. £4301 - £33000

Plan of premises https://forms.midsussex.gov.uk/upload_dld.php?fileid=e1e990432d1d8965bd8eaa14f92f9b6d

Applicant type

Please state whether you are applying for a premises licence as: an individual or individuals

Applicant type

Please confirm: I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities

Individual Applicants

Title: (e.g. Mr/Mrs) MR

Name PAKEERATHAN SANMUGALINGAM

Address Address redacted

Postcode redacted

Phone phone number redacted

Email Email address redacted

Date of birth redacted

18 or over-I am 18 years old or over yes

Nationality SRI LANKAN

Is there a second individual applicant? No

Second Applicant

Other Applicants Liquor Licensing Panel - 23 January 2023

Operating Schedule

When do you want the premises licence to start? 05/01/2023

If you wish the licence to be valid only for a limited period, when do you want it to end?

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

Description of premises

Description

The premises will be a new convenience store under the brand of ONE STOP where all types of convenience products will be sold including fresh & frozen food, toiletries, household, newspapers etc. Other services will also be offered to customers such as the ability to pay bills & collect/send packages. Alcohol will form approximately 15% of the goods on sale and as it is not the intended focus of the business there is an expectation that alcohol sales will have a limited impact on the area as local people are expected to on the whole purchase alcohol along with other products.

In terms of addressing the licensing objectives, this premises will be brand new and subject to significant investment which will involve the installation of high spec equipment such as CCTV, electronic refusals register and till prompts. In addition to that, in order to mitigate any risk from the sales of alcohol and its impact on the licensing objectives a number of robust conditions, which reflect the expected policies and procedures to be operated within the business, have been included as part of this application.

Licensable Activities

Plays

Will you be provisioning Plays? No

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

Sunday

Films

Will you be provisioning Films? No

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

Sunday

Indoor Sports

Will you be provisioning Indoor Sporting events? No

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

Sunday

Boxing or wrestling

Will you be provisioning boxing or wrestling events? No

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

Sunday

Live Music

Will you be provisioning Live Music? No

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

Sunday

Recorded Music

Will you be provisioning Recorded Music? No

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

Sunday

Performances of dance

**Will you be provisioning
Performances of dance?** No

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

Sunday

Similar to live music, recorded music or performances of dance

**Will you be provisioning
anything with a similar
description to live music,
recorded music or
Performances of dance?** No

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

Sunday

Late Night Refreshment

**Will you be provisioning
any late night
refreshment?** No

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

Sunday

Will you be provisioning any alcohol?	Yes
Monday	
Start Time	06:00
End Time	23:00
Tuesday	
Start Time	06:00
End Time	23:00
Wednesday	
Start Time	06:00
End Time	23:00
Thursday	
Start Time	06:00
End Time	23:00
Friday	
Start Time	06:00
End Time	23:00
Saturday	
Start Time	06:00
End Time	23:00
Sunday	
Start Time	06:00
End Time	23:00

Where will the supplied alcohol be consumed? Off the premises

State any seasonal variations : For example (but not exclusively) where the supply of alcohol will occur on additional days during the summer months.

Non standard timings. Where the premises intends to use the premises for the supply of alcohol at different times from those listed above, please list: For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Premises Supervisor

Name PAKEERATHAN SANMUGALIGAM

Address Address redacted

Postcode redacted

Date of birth redacted

Place of birth SRI LANKA

Personal licence number (if known) PA3222

Issuing licensing authority (if known) NORTHAMPTON BC

Opening Hours

Monday

Start Time 06:00

End Time 23:00

Tuesday

Start Time 06:00

End Time 23:00

Wednesday

Start Time 06:00

End Time 23:00

Thursday

Start Time 06:00

End Time 23:00

Friday

Start Time 06:00

End Time 23:00

Saturday

Start Time 06:00

End Time 23:00

Sunday

Start Time 06:00

End Time 23:00

State any seasonal variations : For example (but not exclusively) where the supply of alcohol will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open at different times from those listed above, please list: For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Adult Entertainment

Please highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children. NONE

Licensing Objectives

General - all four licensing objectives On first application, all staff employed at the premises will receive training on the

objectives (b,c,d,e): Please list here steps you will take to promote all four licensing objectives together.	Licensing Act 2003 including input on preventing underage sales, preventing sales of alcohol to people who are drunk and any other relevant matters. Training shall be regularly refreshed at no less than annual intervals. The training must be recorded and be accessible on the premises and made available for inspection upon request of a Police Officer or an authorised officer of the licensing authority or (in the case of online training) within 48 hours.
The prevention of crime and disorder:	A CCTV system will be in operation at the premises and recorded images shall be retained for a period of 31 days. CCTV images will be provided to the police and other responsible authorities as soon as practicable and in any case within 48 hours of a request for such images, subject of the provisions of the DPA.
Public safety:	An incident register will be maintained at the premises and made available to the authorities on request.
The prevention of public nuisance:	A register of refusals of alcohol will be maintained at the premises. The register will be made available for inspection by the Police and other responsible authority
The protection of children from harm:	The premises will adopt a 'Challenge 25' policy. This means that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are 18 years or older. Posters will be on display advising customers of the 'Challenge 25' policy. The only forms of identification that will be accepted will bear their photograph, date of birth and a holographic mark and/or ultraviolet feature. Examples of appropriate identification include a passport, photocard driving licence, military ID, and Home Office approved proof of age ID card bearing the PASS hologram.

Right to work

I have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service-Iyes have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service

Please attach documents demonstrating your entitlement to work in the United Kingdom.

https://forms.midsussex.gov.uk/upload_dld.php?fileid=d9887006303630c6626a8c957cb10ae6

Signatures

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing

yes

work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15-I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15

The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work-The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work

yes

Date	07/12/2022
Please indicate your agreement by entering your name	Paul Sherratt
Capacity	AUTHORISED AGENT
Submit & Pay	
Address for correspondence associated with this application	LICENSING MATTERS 54 FAIRFIELD DRIVE CLITHEROE
Postcode	BB7 2PE
Phone	phone number redacted
Correspondence Email	Email address redacted
Confirm Email	Email address redacted
Payment Ref	1gjm0u53j

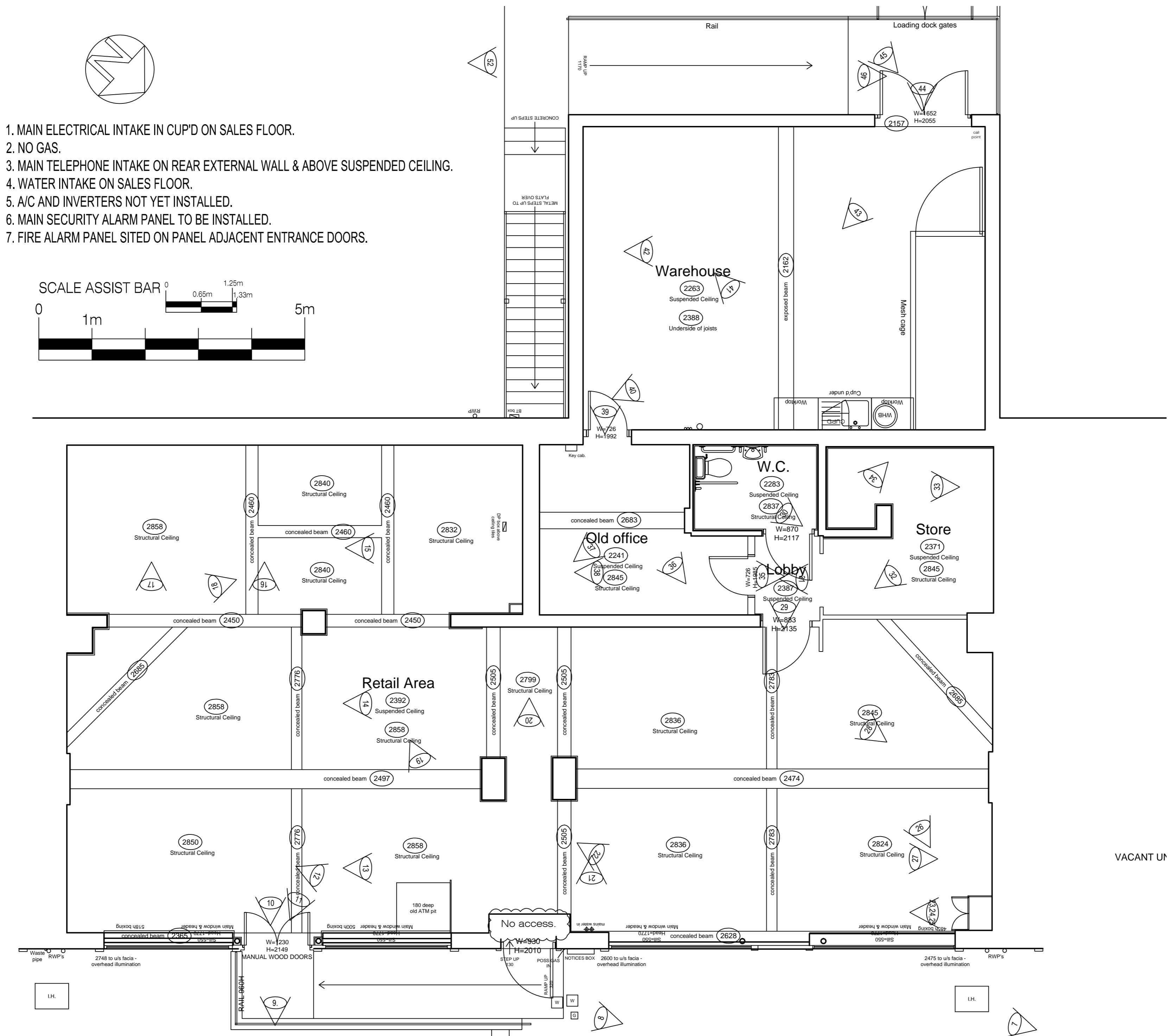
Amount to be paid: GBP 190

Order summary:

Item	Price	Total
Non-domestic rateable value of premises. - £4301 - £33000	£190.00	£190.00
TOTAL	£190.00	

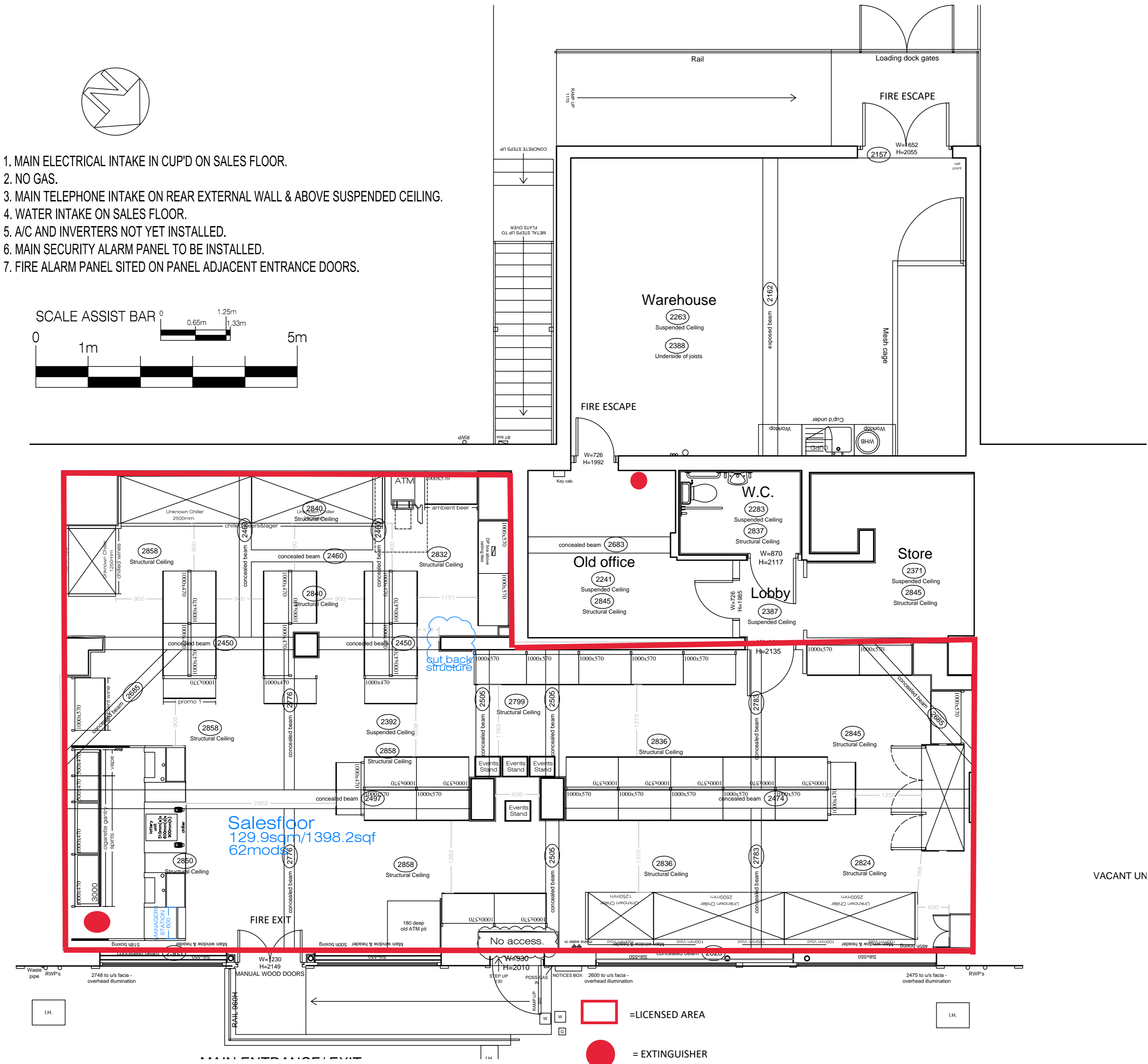
The message has been sent from 90.212.1.155 (United Kingdom) at 2022-12-07 10:36:25 on Chrome 108.0.0.0
Entry ID: 43

existing shopfit plan



- chilled wine
- ambient wine
- wine wow
- chilled foods
- milk
- frozen foods
- take home ice cream
- ice cream impulse
- ambient produce
- bread
- cakes
- cereals
- dessert & spreads
- canned & packet
- ethnic
- savoury
- beverages
- biscuits
- vertical news
- magazines
- cards
- health & beauty
- babycare
- paperware
- household & laundry
- petfood
- countine confectionery
- hanging confectionery
- crisps & snacks
- adult snacks
- ambient soft drinks
- kids stop
- promo 1 - 4
- E1 bay
- grocery hot spot
- gantry
- spirit
- permanent stands
- stat (1m if req)
- indicate mods
- indicate sq2 (retail & boh)
- indicate banding

proposed shopfit plan



linear comparison:

Total	Existing	Target	Achieved

retailer approved

print name

signed

rev approved

date

stock room size
 Small - Medium - Large

store profile:
 *

old store grading:
 Metal Stands - #
 Combined: #

sales area: 128.62 m2
 1,384 ft2

stock area: 52.53 m2
 565 ft2

post office: 0 m2
 0 ft2

project type:
 franchise

store address:
 42-48 AMERICA LANE,
 HAYWARDS HEATH,
 WEST SUSSEX,
 RH16 3SX

store code: 6648

drawn by: Surveybase

date: 08-11-2022

scale: 1:50





Premises Location

This page is intentionally left blank

Site Photos

Premises



View to right



View to left hand side



View to Morrisons Local



From: [Ian Habgood](#)
To: [Jon Bryant](#)
Subject: Re: Objection to Application for Premises License for 42-48 America Lane, Haywards Heath
Date: 04 January 2023 15:51:35
Attachments: [image002.png](#)

Dear Jon,

Thanks for your reply and your helpful comments.

Unfortunately I do not have any legal training so forgive me if my revised objection below is not appropriately written.

Please let me know if this is acceptable.

Thanks again,

Ian

I believe the likely effect of granting and extending the hours of a 42-48 America Lane licence of 0600-2300 every day as opposed to the previous licensable hours of 0900-2200 everyday - which the previous business McColls operated under - would be an increase in noise pollution both late at night and early in morning from a mixture of anti-social behaviour and noise emanating from the premises and delivery vehicles.

This would cause more suffering during sleeping times and affect the lives of local residents/families, particularly those that live in the flats directly above the premises. For this reason I wish to object.

Ian Habgood
Address redacted
Haywards Heath
RH16

From: [Ian Habgood](#)
To: [Jon Bryant](#)
Subject: Re: Objection to Application for Premises License for 42-48 America Lane, Haywards Heath
Date: 04 January 2023 11:38:27
Attachments: [image002.png](#)

Dear Jon,

Thanks for your reply and the details you provided.

I appreciate that you are restricted to what you can and can't take into account due to legislation that you were not responsible for.

I see now that it is difficult for members of the community to oppose alcohol licence applications unless they have funds and professional help.

Consideration for local residents/families, particularly those that live in the flats directly above the premises would be appreciated. Restricting closing times to 10.00pm or earlier would at least lower the risk of late night noise pollution and anti-social behaviour.

Best regards,

Ian Habgood
Redacted
Redacted
Redacted

On Tue, Jan 3, 2023 at 10:10 AM Jon Bryant <Jon.Bryant@midsussex.gov.uk> wrote:

Dear Mr Habgood,

Thank you for your email making representations in respect of the application for a new Premises Licence at 42-48 America Lane, Haywards Heath.

In respect of Licensing Applications the legislation is prescriptive and I can only take into account "relevant representations". Within Licensing Applications a representation is only "relevant" if it relates to the *likely effect* of the grant of the licence on the promotion of at least one of the Licensing Objectives. I am not permitted to accept any representations that are not considered to be relevant under the Act.

The four licensing objectives are:

1. The prevention of crime and disorder. This relates to any crime, disorder or anti-social behaviour at the premises or related to the management of the premises. A licence holder/applicant cannot generally be held responsible for the conduct of

- individuals once they leave the premises;
2. Public safety. This relates to the safety of the public *on* the premises, i.e. fire safety, electrical circuitry, lighting, building safety or capacity, and first aid.
 3. Prevention of public nuisance. This can relate to issues such as hours of operation, noise emanating from the premises, vibrations, lighting and litter.
 4. Protection of children from harm. This relates to protecting children from the activities carried out on the premises whilst they are there. The law already provides special protections for children under 18 to buy alcohol.

I am unable to accept representations that relate to other matters such as the location of the premises, the need for the premises, the fact that there are other premises selling alcohol in the immediate vicinity, the effect on house prices, the local road infrastructure, parking etc.

For clarity I have copied below an extract from the Statutory Guidance issued under the Licensing Act 2003

A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives.

As above, representations should relate to the impact of the licensable activities carried on from premises on the objectives with reference to the steps outlined by the applicant within their Operating Schedule.

The applicant has detailed a number of steps in their application that they intend to take in respect of promoting the Licensing Objectives. These are :

On first appointment, all staff employed at the premises will receive training on the Licensing Act 2003 including input on preventing underage sales, preventing sales of alcohol to people who are drunk and any other relevant matters. Training shall be regularly refreshed at no less than annual intervals. The training must be recorded and be accessible on the premises and made available for inspection upon request of a Police Officer or an authorised officer of the licensing authority or (in the case of online training) within 48 hours.

A CCTV system will be in operation at the premises and recorded images shall be

retained for a period of 31 days. CCTV images will be provided to the police and other responsible authorities as soon as practicable and in any case within 48 hours of a request for such images, subject of the provisions of the DPA.

An incident register will be maintained at the premises and made available to the authorities on request.

A register of refusals of alcohol will be maintained at the premises. The register will be made available for inspection by the Police and other responsible authority

The premises will adopt a 'Challenge 25' policy. This means that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are 18 years or older.

Therefore, currently, I am unable to accept your comments regarding the fact that there is already a nearby premises that sells alcohol and that the area does not need any more similar premises. In respect of your comments surrounding anti-social behaviour and under age drinking are you able to provide any further information to show that this would be a likely effect of the grant of the application?

Additionally I will need you to provide your full address in America Lane as I am unable to accept representations without this.

At present I am unable to accept your representations as being relevant however I look forward to receiving further detail which may assist me in accepting your comments. Please ensure that any additional comments are sent by 2359 hours on the 4th January 2023.

Kind regards

Jon Bryant

Jon Bryant

Senior Licensing Officer

Mid Sussex District Council

Environmental Health

01444 477428

07712 415409

jon.bryant@midsussex.gov.uk

www.midsussex.gov.uk



‘Working together for a better Mid Sussex’



From: Ian Habgood <[Redacted](#)>

Sent: 02 January 2023 22:10

To: licensing <licensing@midsussex.gov.uk>

Subject: Objection to Application for Premises License for 42-48 America Lane, Haywards Heath

You don't often get email from [Redacted](#). [Learn why this is important](#)

Dear Sir/Madam

I am writing to register my objection to the application for the Premises License by Pakeerathan Sanmugalingam for 42-48 America Lane, Haywards Heath, RH16 3QB.

The reason for this opposition is that granting a licence for these premises will not promote the licensing objectives laid out in the council's statement of licensing policy, particularly the prevention of crime, disorder and prevention of public nuisance.

The application proposes that alcohol will be sold for consumption off the premises between 6:00am and 11.00pm, seven days a week. Granting a licence would provide a further source of alcohol within an area already populated with licensed premises.

Located just 200 feet away from 42-48 America Lane is an address that is currently licensed to sell alcohol - Morrisons, 56a America Lane, Haywards Heath, RH16 3QB. Granting licences for premises within very short distances of each other will saturate this small parade with premises licensed to sell alcohol and further encourage anti-social behaviour and underage drinking.

The parade is currently home to Bentswood Community Hub which is provided by Sussex Clubs for Young People, Bentswood Community Partnership and Clarion Futures. The Hub which is 100 feet away from 42-48 America Lane provides a safe and friendly environment for children, helps tackle food poverty with a community larder and provides opportunities for families excluded from society due to their financial position or ill health, factors which often result from the use of alcohol. Enabling the premises two doors down from the hub to sell alcohol would be totally detrimental to both the Council and hub's aims and objectives.

Unfortunately Bentswood area is a historically deprived ward with a bad reputation over the years due to various social issues. During the past few years a number of people and agencies have been working incredibly hard, mostly but not exclusively through the BCP (Bentswood Community Partnership), to reverse this.

Granting a licence would provide a further source of alcohol between 6.00am - 11.00 pm and risks destroying the hard work put into reducing noise nuisance and anti-social behaviour in the area, causing suffering for residents living around and above the shops on the parade in Bentswood.

In view of the above, I would urge the Licensing Authority to refuse the application.

I also wish to highlight that the notice for application for a premises license on view at 42-48 America Lane (photo attached) states "Any person wishing to submit relevant representations to this application must give notice in writing to the address or email shown above by: 4th January 2023" yet there is no email address shown above on the notice (only a website), making it difficult for any person wishing to submit relevant representations.

Yours faithfully,

Ian Habgood
Redacted
Redacted

The information contained in this email may be subject to public disclosure under the Freedom of Information Act 2000. Unless the information contained in this email is legally exempt from disclosure, we cannot guarantee that we will not provide the whole or part of this email to a third party making a request for information about the subject matter of this email. This email and any attachments may contain confidential information and is intended only to be seen and used by the named addressees. If you are not the named addressee, any use, disclosure, copying, alteration or forwarding of this email and its attachments is unauthorised. If you have received this email in error please notify the sender immediately by email or by calling +44 (0) 1444 458 166 and remove this email and its attachments from your system. The views expressed within this email and any attachments are not necessarily the views or policies of Mid Sussex District Council. We have taken precautions to minimise the risk of transmitting software viruses, but we advise you to carry out your own virus checks before accessing this email and any attachments. Except where required by law, we shall not be responsible

for any damage, loss or liability of any kind suffered in connection with this email and any attachments, or which may result from reliance on the contents of this email and any attachments.

This page is intentionally left blank

Proposed Licence Conditions

Conditions agreed by the applicant with Police

1. The premises shall at all times maintain and operate an incident log and refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor at intervals of no less than 4 weeks and feedback given to staff as relevant. This refusals book will be kept at the premises and made available to officers of any responsible authority upon request. All incidents recorded in the log/refusals register will be retained on the premises for a minimum of twenty-four months. The record shall hold the following minimum information:

- Date and time of the occurrence, a brief description of the occurrence, a brief description of the individual involved and the name of the staff member involved.
- Feedback will be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.

2. A list of staff members who are authorized to sell alcohol on the premises will be kept. This shall be endorsed by the DPS with the date of such authorisation commences. The list shall be kept on the premises and made available to officers of any responsible authority upon request.

3. All off sales of alcohol will be made in sealed containers.

4. Spirits will be stored and displayed behind the server/service counter out of the reach of the public.

5. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

- The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
- CCTV footage will be stored for a minimum of 31 days
- The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
- The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy. The time will be amended promptly when British Summer Time starts and ends.
- Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.

- Any breakdown or system failure will be notified to the Police Licensing Department immediately (and retain documentary evidence in the form of an acknowledgement or receipt that this has been done) & remedied as soon as practicable.

- In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

6. 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. The recommended forms of ID that will be accepted are passports, driving licenses with a photograph, photographic military ID or proof of age cards bearing the “PASS” mark hologram.

Suitable and sufficient signage advertising the “Challenge 25” policy will be displayed in prominent locations in the premises, including the point of sale and the area where the alcohol is displayed.

7. The Premises Licence Holder shall ensure that all staff members (including family members and friends) engaged or to be engaged, in selling alcohol at the premises shall receive induction training. This training will take place prior to the selling of such products:

- The lawful selling of age restricted products
- Refusing the sale of alcohol to a person who is drunk

Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed six months, with the date and time of the verbal reinforcement/refresher training documented.

All such training undertaken by staff members shall be fully documented and recorded and signed and dated by both the employee and the DPS. All training records shall be kept on the premises and made available to officers of any responsible authority upon request.

8. Conditions for alcohol delivery service:

Alcohol deliveries will only be made to a residential or business address and not to a public place.

The age verification policy (including challenge 25) shall clearly be advertised at each stage of the order and on all advertising. All forms of advertising and promotional literature detailing the delivery service (including internet sites and flyers/leaflets) will clearly state that alcohol should only be purchased for delivery to intended recipients (or persons who will accept delivery on behalf of the named recipient) who are aged over 18. Customers will be reminded that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person aged under 18.

At the time the order is placed a declaration will be required from the person placing the order that that person is aged over 18 years of age, and that the intended recipient is over 18 years of age. This process will be documented, (tick box before proceeding, record of verbal acknowledgement or similar). These records must be retained for no less than twelve months and produced on request to an officer of a Responsible Authority.

For deliveries where the alcohol is delivered by a third party, the alcohol is concealed in a secure sealed package, and the DPS has no direct supervision or control over the delivery (such as an independent courier or Royal Mail), there cannot be an age verification challenge on delivery, but the above conditions will be followed.

For deliveries made directly by the DPS or their employees, staff or agent or persons instructed by the DPS/PLH, the person accepting the delivery must be aged 18 years or over. Where the person accepting delivery appears to be under 25, a recognised photographic ID must be produced prior to delivery. No ID, no delivery.

Where the premises contracts a third party to deliver alcohol on their behalf and the person collecting the alcohol from the premises delivers it directly to the customer within a short timescale (such as Deliveroo, Just Eats), the premises will ensure that the third party:

- only employs delivery employees or agents aged 18 or over;
- is aware that alcohol is included in the delivery;
- that the delivery person actively engages with the person receiving delivery and operates a challenge 25 policy rather than just handing the delivery over;
- that in the event that the recipient of the alcohol is challenged for ID and does not provide appropriate and valid ID, the delivery person will retain the alcohol and return it to the premises.

This page is intentionally left blank

LICENSING COMMITTEE - PROCEDURE AT HEARINGS

This is the procedure to be followed at Licensing Sub-Committee hearings when the Sub-Committee is exercising the functions delegated by the Licensing Committee under the Licensing Act 2003 as agreed by the Licensing Committee on 2nd February 2005.

1.0 AT THE HEARING

- 1.1 The hearing shall take place in **public**, except where (as defined in the Hearings Regulations) the public interest requires the public's exclusion.

2.0 Right of attendance, assistance and representation

- 2.1 A party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

3.0 Procedure at the Hearing

- 3.1 The Chairman shall at the beginning of the hearing introduce the members of the Sub-Committee, invite the parties to identify themselves and then explain to the parties the procedure which the Sub-Committee intends to follow (this procedure).
- 3.2 The Sub Committee shall then consider any request made by a party for permission for another named person to appear at the hearing, such permission shall not be unreasonably withheld.
- 3.3 The hearing shall take the form of a **discussion** led by the Authority and **cross-examination** shall **not** be permitted **unless** the sub-committee considers that cross-examination is required for it to consider the representation, application or notice as the case may require.
- 3.4 The Sub-Committee must allow the parties an equal maximum period of time in which to exercise their rights to respond to a point or points of clarification and give further information in support of their application, representations or notice; question any other party (if permission has been given) and in which to address the sub-committee.

Members of the Licensing Sub-Committee may ask any question of any party or other person appearing at the hearing.

The Licensing Sub-Committee may take into account documentary or other evidence produced by a party before the hearing, or produced at the hearing if all other parties agree.

The Licensing Sub-Committee shall disregard any information given by a party or by any person to whom permission to appear at the hearing has been given by the Authority, which is not relevant to the Application representations or notice, (as applicable) or the promotion of the licensing objectives, or if the hearing is considering a notice given by the Chief Officer of police, which is not relevant to the crime prevention objective.

3.5 The Sub-Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:

- a) refuse to permit that person to return, or
- b) permit him to return only on such conditions as the authority may specify,

but such a person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

3.6 The Sub-Committee may, after hearing the representations of the parties, withdraw from the room to make their deliberations.

4.0 Determination of applications

4.1 The Sub-Committee shall make its determination at the conclusion of the hearing, or otherwise as prescribed by Regulation. The Secretary of State's Guidance states that the determination shall be 'given forthwith and reasons provided to support the determination'.

5.0 Notification of Determination

The authority shall notify a party of its determination forthwith, or otherwise if the Licensing Act 2003 so provides. Notification to a party will include a statement of the Sub-Committee's reasons for the decision and will be accompanied by information about the party's right of appeal against the determination.

6.0 Failure of parties to attend the hearing

6.1 If a party has informed the licensing authority that he/she does not intend to attend or be represented at the hearing, the hearing may proceed in his/her absence.

6.2 If a party who has not so indicated fails to attend or be represented at a hearing at the Sub-Committee may:-

- where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
- hold the hearing in the party's absence.

6.3 Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee shall consider at the hearing the application, representation or notice made by that party.

6.4 Where the Sub-Committee adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

7.0 Record of proceedings

7.1 A record of the hearing shall be kept for six years from the date of determination or, where an appeal is brought against the determination, the disposal of the appeal. The record must be in a permanent and intelligible form.

8.0 Irregularities

- 8.1 Any irregularity arising as a result of any failure to comply with the Hearing's Regulations **before** the authority had made a determination, does **not** render the proceedings void, and the authority shall, if it considers that any person may have been prejudiced as a result of the irregularity, take such steps as it thinks fit to cure the irregularity **before** reaching its determination.
- 8.2 Clerical mistakes in any document recording a determination of the authority or errors arising in such document from an accidental slip or omission may be corrected by the authority.

NOTES

Human Rights

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a convention right. The Sub-Committee will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following provisions:-

- Article 6 – in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 – everyone has the right to respect for his/her home and private and family life
- Article 1 of the first protocol – every person is entitled to the peaceful enjoyment of his/her possessions (this includes the possession of a licence).

Members Interests

Members of the Sub-Committee shall consider whether they have a personal and/or prejudicial interest in the application or case before them in accordance with the requirements of the Code of Conduct for Mid Sussex District Council.

All interests should be disclosed to the Licensing Sub-Committee and recorded. Members with a prejudicial interest must take no part in the hearing and must withdraw from the room.

This page is intentionally left blank