

BRIGHTON & HOVE CITY COUNCIL

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

10.00am 20 AUGUST 2013

COMMITTEE ROOM 1, BRIGHTON TOWN HALL

MINUTES

Present: Councillor; Deane, Simson and Gilbey

Officers: Tim Nichols, Head of Regulatory Services; Rebecca Sidell, Lawyer; Nathan Birch, Democratic Services Officer

PART ONE

25. TO APPOINT A CHAIR FOR THE MEETING

Councillor Deane was appointed Chair for the meeting.

26. PROCEDURAL BUSINESS

26a Declaration of Substitutes

Councillor Gilbey declared that she was substituting for Councillor Marsh.

26b Declarations of Interest

There were none.

26c Exclusion of the Press and Public

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

RESOLVED - That the press and public be not excluded from the meeting during consideration of Item 27 onwards.

27. AL DUOMO LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

27.1 The Democratic Services Officer reported that agreement had been reached between the applicant and the single representation remaining. There was therefore no need for the Panel to consider the matter.

28. B&W STORES LICENSING REVIEW (LICENSING ACT 2003)

28.1 The Panel considered the report of the Head of Regulatory Services for the Review of the Premises Licence regarding B&W Stores, 29 York Place, Brighton, BN1 4GU, requested by the London Road Local Action Team (LAT).

Present were Tin Nichols, Head of Licensing; Rebecca Sidell, Lawyer; Nathan Birch, Democratic Services Officer; Philip Wells, Chair London Road LAT; Councillor Ian Davey; Andy Winter, Director – Brighton Housing Trust; Sgt Simon Morgan, Sussex Police; Catriona Macbeth, Trading Standards; Sarah-Jane McNaught, Licensing Authority; Wahid Ibrahim, Licence Holder; Robert Jordan, PR Retail Consultants Ltd.

Introduction by the Licensing Officer

28.2 The Licensing Officer introduced the report for the Review of the Premises Licence regarding B&W Stores; 29 York Place, Brighton, BN1 4GU. The review had been requested by the London Road Local Action Team (LAT). Supporting accounts had been received from local residents, businesses and services, of street drinking, nuisance and disorder and the alleged sale of alcohol to drunken customers, said to be linked to this shop. Supporting representations had been received from: Sussex Police; Brighton Housing Trust, a ward councillor; a licensing officer acting as a Responsible Authority; the Equinox social care charity; Trading Standards; local businesses and residents.

28.3 The Licensing Guidance states at 1.5 that the fundamental aims for everyone involved in licensing work include:

- Protecting the public and local residents from crime and anti-social behaviour caused by irresponsible licensed premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them. Licensing Policy encouraged a balance between encouragement for businesses and implementing policy and practice to control crime, antisocial behaviour (ASB) and nuisance. But the Statement of Licensing Policy (SOLP) is a

key aspect of the local authority's holistic approach to management of the licensed trade.

28.4 The SOLP, Enforcement Policy and Home Office Guidance suggests the First intervention with a premises by the Responsible Authorities will be encouraged to propose a package of tough new conditions to be added to the existing conditions, which are designed to combat the identified problem. The conditions need to be tailored to the nature of the problem and the type of premises. Such action should be supplemented where appropriate by:

- Removal of the Designated Premises Supervisor (DPS) and his/her replacement (the manager is removed);
- Suspension of the licence for between one day and three months according to the circumstances.
- Restriction on trading hours – cutting hours of trading in alcohol.

The Licensing Guidance explains at 11.1 that the proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

28.5 The Licensing Officer explained that the options for the Panel on review included any of the following steps:

- modify the conditions of the licence including reducing hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity
- remove the designated premises supervisor, for example, because they consider that problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

The applicant for the review, London Road LAT, had made some specific recommendations concerning: training, condition to remove beers and ciders greater than 6% ABV, suspension and reduced trading hours. The Licensing Officer confirmed he had visited the store on 15th August and did not find any compliance issues. Mr Ibrahim, the DPS, was present, and explained that he had taken strong beers off display in July.

Representation by London Road Local Action Team

28.6 The Chair invited the London Road LAT to outline their representation. Mr Wells explained that he was attending as Chair of the London Road LAT. Mr Wells highlighted the issues of street drinking, ASB, crime and disorder and public nuisance in the vicinity

of B&W Stores and York Place that the LAT had received regular reports that. Issues often flared up in many distressing ways, as had been highlighted in the written representations made. The LAT had met on 6th June 2013 to discuss the issues once more and had agreed to call for a review of the B&W Stores alcohol licence Mr Wells had been mandated as Chair to formally call for the review. Mr Wells had not called for the review in a flippant or vexatious manner, but because of the failure of arrangements in management at the premises and issues regarding the street drinking community in the area. Mr Wells believed the need for the review had been clearly supported in the representations made, including that of Sussex Police.

- 28.7 The LAT has called for the retraining of all staff, including the management; the removal from sale of all beers, lagers and ciders that are greater than 6% ABV, a reduction in the hours alcohol can be sold and the suspension of the alcohol licence for a minimum of 3 months.
- 28.8 In recent months the LAT has had contact with the Licence Holder and the police and local licensing officers. Mr Ibrahim has been willing to remove high strength beers, lagers and ciders from sale and the LAT noted he has applied for the minor variation to the licence. The LAT's aim was that no high strength alcohol should reach the street drinkers in the area. Mr Wells added that the LAT were not experts in this area of licensing and would be guided by the Panel regarding the most appropriate action. The LAT was not however calling for revocation at this time.
- 28.9 Following questions from the Panel Mr Wells supplied the following information. Mr Ibrahim had not attended any LAT meetings and Mr Wells was unsure about the status of any previous invitations. The LAT had been guided regarding the 6% alcohol limit by Sussex Police. The LAT had not discussed any specific reduction in hours, but wished to see less availability of alcohol.
- 28.10 Following questions from Sussex Police Mr Wells supplied the following information. The LAT understood that the only condition that could be applied regarding alcohol content applied to beer, lager and cider.
- 28.11 Following questions from Trading Standards Mr Wells supplied the following information. Members of the LAT had spoken with staff at the store regarding not selling to intoxicated customers or street drinkers, but Mr Ibrahim had not been available.
- 28.12 Following questions from the Licence Holder Mr Wells supplied the following information. The LAT was happy with the measures proposed so far, but would leave any decision on trading hours and/or suspension to the Panel.

Representation by Other Parties – Councillor Ian Davey

- 28.13 The Chair invited Councillor Davey to outline his representation. Cllr Davey advised the Panel he had represented the ward for 7 years. In that time there had been a steady increase around the London Road area of ASB, crime and disorder and the incidence of street drinking. The issues had particularly affected York Place, which had been placed in a downward spiral by such activities. Since the LAT had been formed 5 years ago, York Place had remained in the top 3 priorities for the area. The representations in the agenda described the situation well. B&W Stores was the only off licence remaining from three in York Place and because of this Cllr Davey believed its business model had to be based on selling alcohol to the large street drinking community in the immediate area.
- 28.14 Cllr Davey stated that the cycle of ASB and crime, driven by sales from B&W Stores, needed to be broken. He added that the licensing regime needed to work for the community and not just the licensed trade. Cllr Davey proposed that due to the many incidents the store should have its licence revoked, but urged to the Panel to support the requests made by the LAT as a minimum response to the review.
- 28.15 Following questions from the Panel Cllr Davey supplied the following information. He confirmed that B&W was now the only remaining off licence in York Place.
- 28.16 Following questions from the Panel Cllr Davey supplied the following information. It was accepted that there were other off licences within a short walking distance of B&W Stores.

Representation by Other Parties – Andy Winter, Brighton Housing Trust

- 28.17 The Chair invited Mr Winter to outline his representation. Mr Winter explained that his representation highlighted key areas around the street drinking community, with particular mention of public health and crime and disorder. Mr Winter was able to view the store and its immediate vicinity from his BHT office. He often witnessed drinkers finishing their drinks in a shelter opposite and, while obviously intoxicated, purchase more alcohol from B&W Stores. He had not witnessed them visiting the nearby Co-Op or Aldi stores. On occasions he had needed to call the police when fights had broken out or there may be an issue of child welfare for some of those present. Mr Winter had visited the store regularly and had never seen Mr Ibrahim, the DPS present. He believed this absence of management was in part responsible for the issues that had arisen. The number of staff on duty, often only one, must also be a factor. Changes to the licence conditions had only been proposed since the review process started and Mr Winter believed permanent revocation was the best solution. If this was not accepted by the

Panel he too supported the LAT call for suspension, but would also ask that a condition be added that 2 staff be on duty at all times and that one should be a DPS.

28.18 Following questions from the Panel Mr Winter supplied the following information. In Mr Winter's experience availability of alcohol was the key and he believed that a reduction in the strength of beers, lagers and ciders available would push street drinkers to buy cheap wine instead. Mr Winter had been located at his office since 1995 and had seen particular individuals' health deteriorate over the time they had been drinking. He had spoken with B&W Stores staff about the street drinkers, as well as engaging in similar conversations with the Co-op staff. He did also have regular contact with the street drinkers.

28.19 Following questions from Sussex Police Mr Winter supplied the following information. He had witnessed intoxicated street drinkers buying alcohol several times since April 2013.

28.20 Following questions from Trading Standards Mr Winter supplied the following information. Mr Winter had discussed sales to intoxicated people on 3 or 4 occasions. The general response was one of disinterest from the staff.

28.21 Following questions from the licence holder Mr Winter supplied the following information. Mr Winter had never spoken directly to Mr Ibrahim, because each time he visited Mr Ibrahim was not present at the store.

Representation by Responsible Authorities – Sussex Police

28.22 The Chair invited Sgt Morgan to outline the Sussex Police representation. Sgt Morgan believed he had never seen such a groundswell for a licence review and this was a landmark review, being the first instigated by a LAT. The police believed there was a chronology of gross mismanagement, which had led to a link between B&W Stores and local street drinkers. While it is illegal to sell to intoxicated persons, this can be notoriously hard to prove. In this case though there are several witness statements from the police and trading standards attesting to this activity, as well as the evidence of 4 failed test purchases. All the responsible authorities made reference to illegal sales. Given the number of recorded incidents, Sgt Morgan expressed deep concern at the potential number of illegal sales when no authority is present.

28.23 Sgt Morgan drew the Panel's attention to PC Jameson's statement regarding staff feeling scared and intimidated to make sales by Mr Ibrahim. There were also statements from staff regarding an inability to use the CCTV system and a lack of training to sell alcohol. During one of the failed test purchases when asked their age the individual

making it had replied, "16 years old" and had still been served. On another occasion the member of staff did not even look at the individual, but merely completed the sale.

28.24 Mr Ibrahim had been the DPS since 2007 and when questioned says he does not support them in refusing sales and as outlined in the representations Mr Ibrahim had instructed staff to sell to street drinkers. One member of staff had been assaulted by a street drinker and Sgt Morgan believed Mr Ibrahim had failed in his duty to protect his staff from harm. Resulting call outs to this location had led to a disproportionate use of police resources for a store of this size. The recent statistics had been supplied to all parties. Mr Ibrahim had been spoken to and written to on several occasions. He had received several warnings about the future conduct of business at the store. On each occasion though Mr Ibrahim had denied he sold to street drinkers or that any illegal sales had been made. Immediately following one of these warnings in March 2012 the premises had failed two more test purchases. The police also had concerns about the sale of alcohol to children by proxy, with street drinkers seen buying on behalf of potentially under age children.

28.25 Sgt Morgan accepted that the review of a licence should be a staged process, but Mr Ibrahim had effectively failed the first stage by the continuing illegal sales from B&W Stores after receiving warnings from a responsible authority. The police believed that there had been clear breaches of the Licensing Act and the DPS had obviously failed to promote the licensing objectives. The police were wary of the proposed ABV restriction given the local evidence of street drinkers moving to cheap wine purchases, a view supported by Equinox. The police therefore called for the Panel to revoke the licence as the only way to promote the licensing objectives and prevent further crime and disorder.

28.26 Following questions from the Panel Sgt Morgan supplied the following information. Sussex Police had been in the process of collating evidence for a review themselves when the LAT called for the review. In Sgt Morgan's view a review of the premises was inevitable. The most recent intelligence was that in areas where high ABV beers had been removed street drinkers had taken to drinking low cost wines. This presented the additional problem of the empty glass wine bottle becoming a weapon. There had even been some instances of this occurring around York Place, with bottles recently thrown at windows.

28.27 Following questions from the LAT Sgt Morgan supplied the following information. Sussex Police believed the only way to help resolve the issues in the area long term was to revoke the licence. The larger stores such as the Co-op and Aldi suffered more with shoplifting, but the police believed the ASB and crime and disorder emanating from these premises was minimal, with no issues of disorder outside these premises.

28.28 Following questions from Trading Standards Sgt Morgan supplied the following information. The police had no information with him on the profile of the shoplifters he had previously mentioned.

28.29 Following questions from the licence holder Sgt Morgan supplied the following information. Shoplifting was mainly a problem in the larger stores. No other shops in the immediate vicinity sold beers and ciders above 6% ABV. The officers had taken the relevant action when drunks were served in their presence, including issuing a fixed notice penalty in 2009.

Representation by Responsible Authorities – Trading Standards

20.30 The Chair invited Ms Macbeth to outline the Trading Standards representation. Ms Macbeth had a particular concern about the four failed test purchases. She confirmed the police statement regarding the sale to a child who had stated they were 16 years old. There had also been an incident when a staff member being interviewed by Trading Standards had continued to serve an intoxicated customer, despite being told this was illegal. The officer concerned had no powers, unlike the police, to take action with a fixed penalty or confiscation. Trading Standards would raise questions over the management of the premises following continued visits regarding the sale of out of date food stuffs. The latest of these incidents had been 8 days ago. While not part of the licence review it showed a continued lack of good management or any willingness to change procedures. The business continued to deny any wrongdoing in these cases despite clear evidence.

20.31 Trading Standards had continued to work with the business, offering additional free training in alcohol sales to staff, but this had not been taken up. The premises had also been investigated regarding the duty status of some lines and this was outlined in the representation. The attitude of Mr Ibrahim as DPS was that some staff had been dismissed, but that he had not done anything wrong and the behaviour of the remaining staff did not change regarding illegal sales. Trading Standards believed that there was a policy to sell to street drinkers on two occasions each day, but no more. This was supported by the refusals book and a reason being given as, “served twice.” The business placed high alcohol beers and ciders in full view, near the till, with a policy to replenish immediately to allow staff to spot any shoplifting. Trading Standards did not believe it possible to sell a high ABV beer for £1.60 with any realistic profit margin once duty and VAT are taken into account. Trading Standards believed that the invoices produced showed wine being sold at a £1 per bottle loss.

20.32 Following questions from the Panel Ms Macbeth supplied the following information. Trading Standards would recommend a 3 month suspension, potential review of the DPS and additional training. Trading Standards are happy to offer training. There

remained an issue of the high turnover of staff and the training new staff received. Ms Macbeth confirmed that the staff and street drinkers knew each other by name.

20.33 Following questions from the LAT Ms Macbeth supplied the following information. Trading Standards believed that the long hours of opening led to high turnover and untrained staff. Ms Macbeth was not aware how often Mr Ibrahim attended the premises as the DPS, but he had never been present at the start of any of the Trading Standards visits.

20.34 Following questions from the applicant Ms Macbeth supplied the following information. There had been some illegal duty stamped spirits discovered on a previous visit, but Mr Ibrahim had been unable to supply an invoice so the team could investigate further. Ms Macbeth confirmed that Mr Ibrahim had arrived after the start of some inspections, but had not been present on their arrival.

Representation by Responsible Authorities – Licensing Authority

20.35 The Chair invited Ms McNaught to outline the Licensing Authority representation. The Authority welcomed the review and recognised the problems outlined in many of the representations. Ms McNaught highlighted the written representation. The policy of serving street drinkers twice was brought to her attention during a visit on 17th June 2013 and on the same visit there was a failure to produce staff training records when requested, as per the licensing condition. Warnings regarding a potential review had been given again, but the premises had continued to sell high ABV beers and cider. The Licensing Authority had noted the recent minor variation, but this could be withdrawn. The Panel was urged to add this as a condition to any continuing licence. The Licensing Authority supported the LAT in their objectives.

20.36 Following questions from the Panel Ms McNaught supplied the following information. Advice on free Trading Standards training had been given to the premises. The training records had been a longstanding condition on the licence, but they had not been produced on request or subsequently.

20.37 Following questions from the LAT Ms McNaught supplied the following information. Checking the understanding of the regulations and the Law was part of the inspection process and this included checking the training records.

20.38 Following questions from the applicant Ms McNaught supplied the following information. A full report of the inspection, including how to prevent ASB and a request for the training records, had been left on 17th June 2013, with full contact details. The license holder had not contacted Ms McNaught.

Representation by the Licence Holder

- 20.39 The Chair invited Mr Jordan to make his representation on behalf of Mr Ibrahim. Mr Jordan explained that on 10th July 2013 all beer, lager and cider with an ABV above 6% had been removed from sale. There had also been an application for a minor variation to make this change a condition of the licence. Mr Ibrahim wished to send all staff on the Trading Standards course that had been offered and a new in-house training manual had been introduced. The consequences of any breach of the new policy on not serving street drinkers had been explained to all staff. Mr Ibrahim was happy to undergo a rigorous test schedule, possibly every 8 weeks
- 20.40 Mr Ibrahim was concerned that the troubles of Brighton were being laid at his door. Despite his change of policy super strength was still being sold in the area. Other outlets continue to sell cheap alcohol. B&W Stores had been a member of the Brighton Crime Reduction Partnership (BCRP) for 3 years and also employed mobile security, available via a radio handset. Mr Ibrahim did not wish to see the licence suspended or revoked. High strength beers had been an issue, but these had now been removed. Mr Ibrahim was aware that any further breach would lead to revoking of the licence. There was no intention to withdraw the minor variation application. Mr Ibrahim did not?
- 20.41 Following questions from the Panel the applicant supplied the following information. The new training had started approximately 3 weeks ago. This was provided in house by Mr Ibrahim and was based on the Trading Standards format. Not all staff can use the CCTV, but Mr Ibrahim as the DPS was available at short notice if the system needed to be used. The applicant had always attended meetings with the police and trading standards, but had been resistant to reducing the ABV of beers and ciders because he believed he was following the Law and the licensing objectives. The applicant believed staff comments about his instructions had probably been misunderstood. It was confirmed that there is one member of staff on duty during the weekdays, two staff on some weekday evenings and up to three staff at weekends. Normally between 06:00 - 16:00 only one member of staff worked in store. Mr Ibrahim believed this level of cover was more than adequate during the day. The business employed 10 members of staff. Mr Ibrahim had not been aware of the LAT's existence until recently. Since the reduction in high ABV beers there had only been two refusals and there had been no increase in sales of wine. Staff used the BCRP photo array to identify street drinkers. Mr Ibrahim had no knowledge of the recorded police incidents of 10/17/18 July 2013 when bottles had been thrown in the area.

Mr Jordan confirmed that he had not considered any previous training manual as he always liked to start afresh and comply with local Trading Standards. The course 3 weeks ago had been attended by 3 members of staff (out of 10). Mr Ibrahim confirmed

that he only had training records going back to July 2012. He explained all staff were given an induction by himself and this was regularly updated.

Mr Ibrahim confirmed he did have other business interests, but his business partner covered when he was unavailable. It was confirmed that Mr Ibrahim's partner had undertaken training, but was not a personal licence holder and had not applied to be one.

20.42 Following questions from the LAT the applicant supplied the following information. Mr Ibrahim had not been aware of the strength of community feeling. The changes he had implemented recently had been voluntary and he took staff training seriously.

20.43 Following questions from Cllr Davey the applicant supplied the following information. Mr Ibrahim had been resistant to change previously because he believed he had been following the Law and did not break it.

20.44 Following questions from Mr Winter the applicant supplied the following information. Mr Ibrahim did not accept that the pattern of police call outs to the area, with 95% occurring before 19:00, warranted additional staff during the day time. Mr Ibrahim did not believe there was a major problem with crime and disorder and he reiterated that he was not now selling alcohol to street drinkers. Mr Ibrahim had no comment to make on Mr Winter's direct observations of intoxicated customers being served alcohol. Mr Ibrahim stated that between 25 – 30% of the shop's total sales were alcohol. Mr Jordan believed that revocation would almost certainly mean closure.

20.45 Following questions from Sussex Police the applicant supplied the following information. Mr Ibrahim confirmed 3 of 10 staff had been trained 3 weeks earlier. Mr Ibrahim may consider other staff for Personal Licence Holder status. The business did use a mobile security firm, but did not accept the area as a crime hot spot and warranting an SIA Guard at the store. B&W Stores did call upon the SIA staff at another local business when required. Mr Ibrahim confirmed he did have a job as an NHS Consultant. Mr Ibrahim also confirmed he was a DPS for another business, in another town. Mr Ibrahim believed that he followed the Licensing Objectives to the letter. Mr Ibrahim stated he had stopped serving to street drinkers quite some time ago, but then confirmed it was following a meeting with the LAT on 10th July 2013. The business would no longer serve any street drinker, drunk or sober.

20.46 Following questions from Trading Standards the applicant supplied the following information. With his medical training Mr Ibrahim was aware of the consequences of selling high strength alcohol to individuals with alcohol dependency issues. Mr Ibrahim and his business partner were responsible for the order of the stock and the consequent high stock levels of super strength beers and cheap wines. The two partners also then

agreed on the subsequent pricing levels. It was agreed that on a £1.60 can of high strength beer the duty and VAT accounted for £1.31 of the total charged. This left 29p to cover the business costs, transportation and any profit. Mr Ibrahim believed he could offer better pricing due to the free stock he received, but the total amount of free stock was not recorded. Mr Ibrahim agreed the business held high levels of super strength beers and ciders, but this was down to cheap deals and the business operated on very small profits. Mr Ibrahim stated he did understand the Licensing Objectives and had followed them. It was also confirmed that no staff had yet been booked onto the Trading Standards age restricted sales training due to take place next month.

20.47 Following questions from the Licensing Authority the applicant supplied the following information. The minor variation application, to restrict sales of beers and ciders with an ABV greater than 6%, was not an acknowledgement of any issues arising from the business, but in response to the review process.

Summaries

20.48 The Licensing Officer explained that it can be hard to link the causality of off sales: sale, consumption, disorder, nuisance, detritus and the impact on community, but in this case it seemed clearly triangulated by local people and authorities. The purpose of licence review is to protect the public from crime, ASB and nuisance caused by irresponsible licensed premises. The review process is the key protection for the local community. Licensing Guidance invites the licensing authority to establish the cause of concerns from, in this case, local businesses, local community, local councillor, BHT and responsible authorities. The Licensing Guidance, at 11.20, advises the review to establish the cause of concerns and direct remedial action appropriately.

Licensing Guidance has advice on post review management and suspension, as set out at paragraphs 11.22 and 11.23 of s182 the guidance: These stated:

- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of

promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

The SOLP recommends a firm response. First interventions are expected to entail DPS removal, suspension and reduced trading hours. The proposed interventions do not preclude an immediate revocation in appropriate serious cases.

20.49 On behalf of the LAT Mr Wells explained that York Place has had many problems over the years, with the sale of alcohol being a major contributing factor. The LAT accepted that some changes had been offered by the licensee. He asked that the Panel consider carefully what measure would best give the community a chance to recover and ensure long term change.

20.50 Cllr Davey stated that he had been shocked by the additional facts that had been brought to light by the review and the situation was far worse than he initially realised. Cllr Davey believed there had been gross mismanagement of the premises and there was a history of non-compliance with the licence conditions and the Licensing Objectives. The responsible authorities had issued a series of yellow cards in the form of various warnings and penalties, but these had been ignored. Cllr Davey believed the most appropriate course of action would be to revoke the licence. If the Panel did not feel this was possible he urged a 3 month suspension, with strong conditions, possibly including the need for SIA door staff to be employed.

20.51 Mr Winter supported Cllr Davey's comments and the police in their call for the licence being revoked. Mr Winter also asked that if the Panel did not revoke the licence then a minimum 3 month suspension be imposed. Mr Winter did not believe Mr Ibrahim was a suitable DPS and the Panel should also consider his removal.

20.52 Sgt Morgan, on behalf of Sussex Police, reiterated that they had consistently advised Mr Ibrahim that 6%ABV or higher beers and ciders should be removed from sale. They had warned him about serving street drinkers and drunks and about the incidents occurring in the area. The premises had failed 4 test purchases since Mr Ibrahim became the DPS. Mr Ibrahim had denied there was problem and treated the Licensing Act with contempt, allowing B&W Stores to become the centre for alcohol related disorder in the area. Mr Ibrahim had only taken some action following the implementation of the review

process, but even now the police did not believe that Mr Ibrahim, as the DPS, was capable of supporting the Licensing Objectives.

The police did not believe suspension and conditioning would work and problems would continue. The police believed the community would continue to be put in jeopardy and revocation was the only option in this case.

20.53 Catriona Macbeth, on behalf of Trading Standards, highlighted that Mr Ibrahim was aware of the health effects of high alcohol sales being made, but had continued to make these to the street drinking community. She believed it highlighted trading practices that made the sale of alcohol the overriding priority of the management. The potential for undersold wine replacing high strength beers and ciders as the street drinkers' alcohol of choice was a real one in her opinion. If the Panel was minded to suspend the licence then Trading Standards too would wish to see strong conditions, including training procedures.

20.54 On behalf of the Licensing Authority Sarah-Jane McNaught reiterated her earlier representation and added that the Licensing Authority had no confidence that Mr Ibrahim, as the DPS and Premises Licence Holder, would promote the Licensing Objectives.

20.55 On behalf of the applicant Mr Jordan explained that Mr Ibrahim had never been prosecuted for non payment of duty on alcohol. He noted many had called for the high strength beers and ciders to be withdrawn from sale and this had been done. A full training programme, including dealing with street drinkers, was being implemented. Mr Ibrahim wished to remain as the DPS and was aware of the consequences of any future breaches and potential review. Mr Jordan suggested the Panel could impose suitable conditions, but allow the store to continue trading in alcohol. The minor variation would not be withdrawn and would come into force even without conditions being imposed. Mr Jordan explained this was a small business and should not be penalised for issues it had not been aware of. There had been mistakes in the past, but these would not be repeated.

The meeting adjourned at 13:20 for the Panel to consider the review.

The meeting reconvened at 15: 07

20.56 **RESOLVED** – The Panel has listened carefully to all the arguments put forward today and read all the documents supplied. The Panel have listened to the evidence and representations in support of the Review application brought by the Local Action Team; from a local councillor; Sussex Police; Brighton & Hove Trading Standards; Brighton & Hove Licensing Authority and Brighton Housing Trust, and had read the statements from local residents, traders and the charity Equinox. The Panel have listened carefully to the

licence holder and his representative and considered their supporting documents relating to staff training and the application for a minor variation to the licence. The Panel have also had regard to the Authority's own Statement of Licensing Policy.

The Panel heard and had evidence from the local community of longstanding problems in the area relating to alcohol fuelled anti social behaviour, particularly relating to the street drinking community. Local traders and residents have provided evidence of individuals who are clearly intoxicated, entering B&W Stores and emerging with unopened cans of high strength alcohol. Police officers and Trading Standards officers also report direct evidence of alcohol being served in their presence to individuals who are obviously intoxicated and also to under age children.

The Panel has heard that over a number of years these trading practices have contributed to a well documented history of alcohol related problems and the deterioration in the local environment. The Panel have heard a statement from the Director of Brighton Housing Trust of individuals' worsening health in the immediate vicinity of B&W Stores, where he has observed the street drinking community. The Panel have heard from Sussex Police, Trading Standards and the Licensing Authority that they have all been in contact with the licence holder. Evidence goes back to 2009 of these agencies trying to work with Mr Ibrahim, through visits to the premises, invitations to attend meetings and the giving of advice, letters and warnings about the sale of high strength alcohol to vulnerable people and its effect on individuals' health, and the incidences of alcohol related crime in the vicinity. The Panel have heard from Sussex Police and the Local Action Team that York Place is identified as a crime and disorder hotspot and a magnet for the local street drinking community.

The Panel have considered all the powers available to them in response to the review. The Panel deem modifying the conditions of the licence to be insufficient. The Panel also consider the removal of the Designated Premises Supervisor (DPS) is not appropriate as Mr Ibrahim is also the premises licence holder and would still maintain control of the business. The Panel accept the concerns of all parties, particularly Sussex Police, Licensing Authority and local councillor, regarding the extremely poor management of the premises. Furthermore, the Panel felt that the responses given by Mr Ibrahim demonstrated a lack of understanding of the licensing objectives and a clear denial of his responsibilities as the DPS and licence holder.

Considering the option of suspension of the licence with conditions; the Panel has no confidence that following any suspension the premises management would not revert to the current situation. Mr Ibrahim consistently refused to stop selling high strength alcohol and has only been willing to consider this in response to the review. The Panel have considered this offer, but have concerns that the withdrawal of high strength beer,

lager and cider will not be sufficient to resolve the ongoing issues in light of evidence from Sussex Police that street drinkers will buy low cost wines, as offered for sale in the store. Even though a suspension might provide an opportunity to implement training for staff, the Panel again have little confidence that this will be maintained given previous failings to adhere to the licence conditions in this regard.

The Panel believes that the premises licence holder has been given ample opportunity to improve the way the premises are run, in effect a series of “yellow cards” issued by all the responsible authorities. The Panel has therefore decided the only option in this case is to revoke the licence. We believe this is an appropriate and proportionate response to the review and will promote the Licensing Objectives and protect the local community.

The meeting concluded at 3.14pm

Signed

Chair

Dated this

day of