

BRIGHTON & HOVE CITY COUNCIL
LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

10.00am 18 JANUARY 2019

ROOM G70, HOVE TOWN HALL - HOVE TOWN HALL

MINUTES

Present: Councillors: O'Quinn (Chair), Knight and Morris

Officers: Mark Savage Brookes(Licensing Officer) Donna Lynsdale (Licensing Authority Officer), Rebecca Sidell (Legal Advisor) and Hannah Staplehurst (Police Licensing Officer) PC Andre Bernascone (Police Licensing) Kat Hoare (Democratic Services Officer)

PART ONE

69 TO APPOINT A CHAIR FOR THE MEETING

69.1 Councillor O'Quinn was appointed Chair for the meeting.

70 PROCEDURAL BUSINESS

70a Declaration of Substitutes

70.1 There were none.

70b Declarations of Interest

70.2 There were none.

70c Exclusion of the Press and Public

In accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2003, the Licensing Panel considered whether the public interest in excluding the public and press from all or any part of the hearing outweighed the public interest of the hearing taking place in public.

70.3 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of Item 71.

71 17 PRESTON ROAD LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

71.1 The Chair introduced the Panel

71.2 The Panel considered a report of the Director of Neighbourhoods, and Housing to determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for 17 Preston Road.

Introduction from Licensing Officer

71.3 The Licensing Officer Mark Savage Brooks stated the following:

“The Panel will hear this morning an application submitted by Mr Rany Dahwch for a new Premises Licence to be issued for 17 Preston Road, Brighton.

The premises is described in the application as a newsagent and off licence shop and the application proposes the sale by retail of alcohol between the hours of 7am to 1am Sunday to Thursday and 7am to 3am on Fridays and Saturdays. All alcohol sold would be for consumption off the premises.

Eight representations were received from local residents, Sussex Police, The Licensing Authority and Public Health, which collectively raised relevant concerns in relation to the Licensing Objectives of the Prevention of Crime and Disorder, the Prevention of Public Nuisance and the Protection of Children from Harm.

The representation received can be seen in Appendix C of today’s papers, which starts on page 21. The proposed Operating Schedule submitted within the application can be seen on page 17.

I confirm that the premises is not located in either the Cumulative Impact Area or the Special Stress Area.”

Questions to the Licensing Officer

71.4 The Chair asked the Licensing Officer Mark Savage-Brooks whether this licence had ever been revoked and the Licensing Officer confirmed that it had been revoked following review and then the appeal dismissed in April 2018. It was also refused at a Panel hearing in March 2018. The Chair asked whether the reason for the licence being revoked was for sale of illicit alcohol and tobacco. The Licensing Officer stated that the history was relevant and that there had been two failed test purchases and he confirmed that there were many different issues which brought the proceedings to a review, which included the sales and storage of illicit alcohol. When the Chair asked the Applicant whether they had any questions for the Licensing Officer, the Applicant replied that they wanted to confirm that they had nothing to do with the previous owners of this establishment.

Representations from Responsible Authorities

Police Licensing Officer

71.5 The Police Licensing Officer Hannah Staplehurst addressed the panel and stated the following:

“As mentioned, this is a new application for an off licence within the “others area” as defined by the Brighton & Hove City Council Statement of Licensing Policy 2016. This application is asking for off sales of alcohol Sunday to Thursday between 07:00 – 01:00 and Friday and Saturday 07:00 – 03:00.

From the Statement of Licensing Policy 2016 (revised 2019) page 18, point 7 “Other Area; consideration will be given to the nature of the area and location in relation to any application. In a residential area for example the concerns of local residents will be relevant when considering applications for off-licences, pubs or cafes especially if there is evidence of anti-social behaviour, street drinking or underage drinking. Earlier closing times may be appropriate.

Sussex Police note that Preston Road, while consisting of a parade of shops, is also densely residentially populated with flats and other dwellings in the locale therefore the late opening hours would not be suitable due to potential nuisance this could cause to residents.

The locale has pre-existing issues around high levels of alcohol consumption and anti-social behaviour both of which could potentially be added to with an additional premises with off sales. There are already a high number of off licenses in the locale of which there are 3 directly opposite this premises along Preston Road. The majority of these licenses in the locale already permit alcohol sales in to the early hours.

Also Sussex Police note the premises may not be in the SSA however it is very close to the border and is a stone’s throw from the Level and London Road and any alcohol purchased from the premises is very likely to be taken and consumed in the SSA and possibly into the CIZ increasing the risk of anti-social behaviour in the city where many incidents that arise are alcohol fuelled. Sussex police feel further incidents may occur as conditions were not offered not to stock over 6% ABV Beers, Ciders and Lagers, or not to sell single cans.

There is a lot of history involving this premises and it is a cause for concern that the Applicant did not pre consult with Sussex Police despite the licence for this Premises being revoked in 2017, then an appeal and New Application failing to produce a new Licence in 2018.

It is the view of Sussex Police that the Applicant fails to demonstrate in the operating schedule that they will not undermine one or more of the licensing objectives with the conditions they have offered.”

Questions to the Police Licensing Officer

71.6 The Chair stated that the premises was located in a very busy area near shops and the Duke of York’s venue and she asked whether the Police Licensing Officer had expected the Applicant to talk to them directly about the recent licensing history of the premises. The Police Licensing Officer replied that they would normally have expected more than a short list in the Operating Schedule, which the Applicant submitted. She also added that they would have expected to see other specific requirements on this

list including: no single cans and no lagers in addition to an incident refusals log and detailed staff training conditions with appropriate signage. She confirmed that if the Applicant had made arrangements for a meeting with the Police, then they would have raised their expectations on this application.

- 71.7 The Chair asked whether due to this recent licensing application history, this shop had to rise above its reputation and the Police Licensing Officer confirmed that this was correct and that there were already many shops and venues in the area with late opening hours and that the Applicant had not approached the Police after receiving this Licensing report. The Chair also added there was a lot of anti-social behaviour and underage drinking in this area.

Representation from the Licensing Authority Officer

- 71.8 The Licensing Authority Officer, Donna Lynsdale addressed the Panel and stated the following:

“You have seen my representation against the application for a new premises licence.

This application is for a new Premises Licence and asks for off sales of alcohol between:

7am - 1am – (Sunday-Thursday) and
7am – 3am (Friday –Saturday)

I make my representation on the ground that granting this licence will undermine the licensing objectives of prevention of crime and disorder, public nuisance and protection of children from harm. It is also contrary to the Statement of Licensing Policy.

The premises has a long history in breaching licence conditions, poor management, failed underage test purchases, non-duty paid (smuggled) alcohol and food safety issues. Resulting in the premises licence being revoked. Although this is a different Applicant to the previous premises licence but feel it is important to make the panel aware of the recent troubled history of this premises.

The premises is also located just outside of the Special Stress Area, in the area termed in the Matrix Model as ‘Other Areas’. The Matrix Model indicates that Off-licences might be granted up to 11pm, but if they are located in densely residential areas, this terminal time may be earlier. The application is therefore asking for a terminal time considerably later than the one indicated in the policy.

The decision-making Matrix on page 17 of the Council’s Statement of Licensing Policy states that outside of the CIZ, SSA & Marina Off licences may be granted up until 11pm (or earlier if a densely residential area). The aim is to reduce availability of alcohol to address late-night street drinking, binge drinking and post-loading. There is an obvious disconnect in where alcohol is sold for off consumption and any subsequent nuisance or crime and disorder.

In addition, this premise falls within the electoral area of Preston Park. The premises is also on the border of the St Peters and North Laines electoral ward. According to our

Public Health Framework for Assessing Alcohol Licensing, St Peters and North Laines is ranked 1st for 'Police recorded alcohol related incidents' and 2nd for 'All violence against the person', 'All injury violence', 'Non-injury assault' and 'Alcohol suspected ambulance call outs'.

The Licensing Authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy in light of the individual circumstances of the case. I do not believe that the Applicant has demonstrated that there are exceptional circumstances to justify departing from the Policy.

It is my opinion, granting this application would add to the additional burdens and problems in the area. I therefore request this application is refused in line with our Statement of Licensing Policy and the Matrix approach."

Questions to the Licensing Authority Officer

- 71.9 The Chair asked if the Applicant had discussed their application with the Licensing Authority and whether a visit had been made to the premises. The Licensing Authority Officer confirmed that they had not been contacted by the Applicant and that no visit had been made since the premises was closed.

Representation from Consultant in Public Health

- 71.10 The Consultant in Public Health, Peter Wilkinson addressed the Panel and stated the following:

"This application is for a new licence for the off-sales of alcoholic beverages between 7am and 1am five days a week and 7am until 3am on Friday and Saturday days and nights.

These premises are outside but close to the border of St. Peter's and North Laine ward which is within the special stress area. St. Peter's and North Laine ward is ranked either the worst or second worst in the city for five of the six alcohol associated crime and disorder indices public health monitor: all violence against the person, all injury violence, non-injury assault, criminal damage and police recorded alcohol-related incidents. The ward is ranked the fourth worst for sexual offences. In addition to the above, for the health data public health monitor, St. Peter's and North Laine ward is ranked the worst for increasing risk or higher risk drinking in the city. This ward is also ranked the second worst for alcohol suspected ambulance call outs, the third worst for A&E attendances with a record of alcohol and the fourth worst for clients in alcohol treatment.

The Applicant has offered a number of conditions to try and ensure that the operation of these premises will not undermine any of the licensing objectives. These include CCTV and Challenge 25 but do not include signing up voluntarily to the "Sensible on Strength" scheme which aims to reduce the availability of cheap super-strength beers and ciders.

The council's Statement of Licensing Policy matrix to support licensing decisions permits a licence for off-sales until 11pm in the area where this Applicant's premises are located. However, this application for off-sales until 1am or 3am is not in keeping with the policy's licensing matrix.

You will be aware that there is already considerable nuisance, crime and disorder from alcohol consumption in the city. This application for an off-sales licence, if accepted would very likely add to this burden from alcohol. Therefore, on the basis that the application is in contradiction with the Licensing Matrix set out in the council's Statement of Licensing Policy, and that the premises sits close to an area of the city, where the impact of alcohol on nuisance, safety, crime and disorder, is already at a high level, I wish to register my objection to this licence application."

Questions to the Public Health Officer

- 71.11 Councillor Knight asked the Public Health Officer whether this area was the worst in the city and he replied that it was either the first or second worst area in the city. The Licensing Officer added that there had been 784 incidences involving alcohol in the area. The Public Health Officer added that in this area the increased risk of alcohol related incidents was the highest in the city.

The Applicant

- 71.12 The Applicant addressed the Police Licensing Officer and stated that he was unaware that he could contact the Police at any time on this matter. He confirmed that he managed two off licence shops : The Booze Shop and one situated on Western Road and stated that he was unaware that this history should have been stated in his application. He also stated that he was unaware of the high levels of crime in the area and whether this new premises would add to these crime levels, since, until now he had worked in different areas. He confirmed that was very open to changing the opening hours and installing cctv if required, although he thought that the premises already had 24 hour cctv operating. The Applicant also confirmed that in regard to staff training on the selling of alcohol, he had received a recent visit from trading standards and had been given the impression from them that his business was in the clear on this matter. He confirmed that since all members of staff already held a personal alcohol licence there were no further risks in this area, since the premises was mainly a convenience store selling food. He confirmed that any alcohol in the premises would be out of easy reach to the public with a cctv camera on the gate and was happy to cooperate with all the authorities on this.

Questions to the Applicant

- 71.13 The Chair asked why the Applicant was unaware of the complex nature of obtaining a licence in the city, since he already managed two other off licence shops - The Booze Corner Lewes Road and 92 Western Road.
- 71.14 The Police Licensing Officer asked whether the Applicant was the Designated Premises Supervisor (DPS) of both of the shops and the Applicant replied that he was not the DPS, but owned them. The Police Licensing Officer stated that the CIZ and

SSA were mentioned within the Licences of these two premises, since they are located within these areas which contained numerous premises selling alcohol and suffered from public disorder. She explained that all the areas discussed in the panel today were the reasons why the details regarding the matrix and this policy needed to be discussed and she reiterated that opening until 3 am on a Friday night went against this policy. She also confirmed that 24 hour CCTV must have the correct date within it and that a lot of detail was required within the conditions of this policy and she would have expected to have seen this copied from previous licences. She confirmed that if the Applicant had come to the Police for assistance with the application, they would have done a lot of work on these details with the Applicant, since the premises was located four doors away from the Special Stress Area – SSA and that since alcohol was likely to be consumed with the SSA it was the police's job to prevent this from happening.

- 71.15 The Chair asked the Applicant whether he ran the other premises he mentioned and he confirmed that he did but was not the DPS since he was in the process of transferring this from his current to this premises. He confirmed that Mr Fadi Darouj – his friend who accompanied the Applicant in this hearing would run the shop and that he had a personal licence dated from 2014. Mr Darouj had worked in a shop selling alcohol in Peacehaven for two years and then at The Booze Corner for two years. The Chair then restated that with Mr Darouj's status as a DPS, he also should have known about the conditions required for the application and that therefore she was bemused as to why more information was not submitted within the application.
- 71.16 The Applicant asked the Police Licensing Officer about which conditions required more detail and the Police Licensing Officer replied that the cctv section of licence alone was usually half a page long , and that, due to the history of this premises, the police would expect that this should be listed in detail in order to prevent past problems from re-occurring. The Applicant responded that he had expected these details to be negotiated after the initial application had been received.
- 71.17 The Chair asked the Applicant whether he personally had made the application for the other premises he currently ran and the Applicant replied that his licence had been transferred from his previous premises. When the Chair then asked if he had ever made a licence application himself, he replied that he had not made an application in the Brighton and that he had thought that this detailed information came later in the process. He confirmed that he had never gone through this application process in Brighton and in his previous experience of dealing with Rother Council for a premises in Bexhill, he had been visited by a Licensing Officer who had set out terms during the visit and then he had liaised and negotiated details after this. The Chair then confirmed that for this Brighton application, the Applicant needed to offer the conditions now and that he understood this now.
- 71.18 The Chair then asked the Applicant whether he was already running this premises and he replied that he was not, as the shop was currently closed. He confirmed that he came to buy the premises through the same landlord as his current shop The Booze Corner. The Applicant stated that the landlord has asked if he wanted to take over the business as there had been some problems with the shop. The Chair then asked if the Applicant was aware of the history of problems with this premises and the Applicant replied that he was only aware of the financial problems and was unaware of the

previous licence Refusal. The Applicant also confirmed that he had not signed a lease, nor had any firm involvement in the premises to date and was waiting to see if a licence would be granted, before he entered into any further commitment.

- 71.19 Councillor Morris asked the Applicant whether he owned his own company and the Applicant replied that he did own a limited company and then Councillor Morris questioned the Applicant whether he should have checked with a lawyer to print out a lease plan in order to assist with the application. The Applicant confirmed that the plan in the application came from the landlord. Councillor Morris then asked various questions on the plan as to where spirits and tobacco were to be located in the shop within the red line area marked and the Applicant confirmed that the area for storage of alcohol was behind the counter to the side of the freezer used for ice-cream. Councillor Morris stated that he was concerned about the red line, since he felt the Applicant had not clearly indicated where the area for selling alcohol was. The Police License Officer added that he expected fixtures and fittings to be shown on the plan and for any changes to be marked up.
- 71.20 The Chair stated that she was concerned that the Applicant had not looked properly inside the premises yet and the Applicant replied that he had visited the shop but was not aware of any leaks or other structural problems.
- 71.21 Councillor Knight stated that she was concerned about the percentage of alcohol in view on the shop floor of the premises and felt that it would be better to store alcohol at the back. She stated that in the past there had been a problem with alcohol being sold to underage children in this area and the Chair agreed that the problem had to be addressed but that the alcohol should be sold at the front of the shop to give control to the manager. There was an in-depth discussion about where alcohol should be stored and sold in the shop between the Applicant and panel members.
- 71.22 The Chair then asked why the Applicant had applied for such late opening hours and the Applicant replied that he did not know the area, but had previously run other premises for 24 hour periods and had not envisaged there being any problem with this premises. The Chair replied that the licensing policy in Brighton had changed radically in terms of hours since the Applicant had made his previous application for The Booze Shop and that the Applicant should have recognised this in advance of the application. The Applicant was then showed the new written regulations. Councillor Knight also asked the Applicant why he had not considered that the hours requested as long and the Applicant replied that he expected to open until 3 am at the weekend, but if business slowed at 8pm then he would close then. He said that he was unaware of business hours in the area and was flexible on this. The Chair said that residents had raised objections to the late opening hours and had written letters about their experience of noise disturbance at early hours of the morning in the area and their concern for the premises being previously mis-managed. The Chair stated that there had been a change since the CIZ had been introduced in 2008 and that it was now unheard of to grant these requested long hours in this area. The Chair then asked the Applicant if they were prepared to change the hours to 11 pm at night for the licence. The Applicant confirmed that they would be flexible on this. The Chair also questioned why the Applicant wanted to sell alcohol from 7 am in the morning and he replied that he would not expect to sell alcohol at that time, but that it was a problem having shutters over the alcohol in the shop. There was then a discussion between the Chair

and the Licensing Officer about the early hours sale of alcohol and that the opening hours could be specified as different to those hours when alcohol was permitted to be served. The Licensing Officer confirmed that it was usual for premises to be open from 7am but not allowed to sell alcohol until 10 am in order to avoid underage drinkers access to buying alcohol.

- 71.23 Councillor Morris then led a discussion between the panel and all parties about specifying that a blind could be bought at low cost and erected around the area where alcohol was stored in order to uphold any times where the shop was open but alcohol was not allowed to be sold in order to prevent underage drinking and access to alcohol for streetdrinkers. The Applicant confirmed that he would have between 1 – 3 members of staff working at any one time and that cctv had been installed in his other premises and the Chair confirmed that this prevented shoplifting of alcohol.
- 71.24 The Police Licensing Officer asked the Applicant if they were aware of the burglary that had occurred on 3rd January 2019 in the premises and the Applicant replied that he was unaware of this and that the landlord was away in Turkey at present. PC Andre Bernascone stated that £ 30 – 40,000 of stock which included the cctv system, ceiling tiles and wiring had been stolen from the premises in the burglary and the Chair stated that the Applicant should discuss this with the landlord.
- 71.25 The Police Licensing Officer asked the Applicant whether it was the landlord or himself who would be confirming any future decision on licensing hours and the Applicant confirmed that the landlord's name was Mr Kamber Koluman and that the landlord had given him the impression that the hours in this area may be difficult for the licence. The Police Licensing Officer stated that the shop had been shut since January 2018 and that the premises license had been revoked in December 2017 and since then the owner had not attended any subsequent Appeal hearings, the shop had been closed for some time. The Applicant also confirmed that his company running the The Booze Corner Shop Ltd, based in Lewes Road. He also stated that and the company for the 92 Western Rd premises was Western Rd Convenience Ltd which will transfer to the Applicant's company RSR Brighton Ltd.
- 71.26 The Licensing Officer Mark Savage Brooks stated that conditions would need to be confirmed by the Applicant for the premises and may include details of the sight line of alcohol rather than the precise location within the shop and that this would need to be clear and precisely labelled. The Chair also added that the panel had canvassed the Applicant on hours and wanted to confirm that he agreed to having alcohol on display from 10am, but no sales of alcohol until 11am and that the Applicant could get a roller blind to cover the stock when required. The Licensing Officer, Mark confirmed that a blanket or cardboard could be used instead of a blind, but that it was illegal to have alcohol on display at times outside of the licensed hours. There was then a short discussion about the options available to save costs for covering alcohol in the shop. The Applicant confirmed that he would be prepared to do this, as required.
- 71.27 The Chair confirmed that there was now a new licensing policy and set of requirements which were different to the ones that the Applicant had worked under previously and she asked if the Applicant would be prepared to make changes to conform to these new policies and the Applicant confirmed that he would. The Chair asked the Licensing Officer for confirmation of what percentage of the total stock,

alcohol could make up in an off licence store and the Licensing Officer replied that alcohol could make up 15 – 20% of the stock. The Chair then confirmed to the Applicant that they would allow up alcohol to take up to 20% of the shop floor / product display in this shop.

- 71.28 The Applicant then queried the topic of which type of alcohol and its percentage was permitted to be sold and the Licensing Officer replied that there was no list of conditions currently, but the additional condition on cctv could be added. The Police Licensing Officer stated that she did not have a list of conditions with her, since the Police did not want the application in its current incomplete form to be approved. There was then a short discussion on the different options available to the Panel in order to resolve this matter, which included: adjournment so that the application could be re done or refusal so that a completely new licence could be applied for in the future to include the conditions such as staff training and the installation of cctv. The Chair then decided that there should be a break in this meeting so that the panel could address these issues and that the Licensing Officer could check conditions .
- 71.29 After the break, when the Panel reconvened, the Chair stated that it was confirmed that the Applicant had not understood the whole application process and had not liaised with the Police or Licensing prior to submitting their application as they should have done and that the Applicant would probably have more questions for the landlord of the premises. Therefore the Chair stated that the Panel suggested that the Applicant could either withdraw their application and apply again with the assistance of the Police and Licensing or the Panel could refuse the application and then the Applicant would have the right of Appeal. The Licensing Officer added that he had a written list of 14 relevant off licence conditions that the Applicant would be expected to address. Councillor Morris confirmed that the panel wanted to help the Applicant make his business a success and therefore it would be best for the Applicant to consult appropriately and then re-apply. In response, the Applicant stated that if he were to reapply he would not be adding anything to the application and would prefer to agree to conditions now in the current panel.
- 71.30 There was a short discussion amongst all parties regarding the best way of moving forward with the current application. The Chair concluded the best solution was for this Panel to be adjourned and reconvene at a future date after the Applicant had met with the Licensing officer to confirm a list of conditions and amend the application. The Licensing Authority officer confirmed that the Applicant should come back with amended opening and alcohol sale hours, as previously discussed. The Licensing Officer added that extra representations could be added to the case and the Legal Adviser also confirmed that residents or other representative could be given the opportunity to give their opinions again. Councillor Morris confirmed that it was important to demonstrate to local residents how this application was being dealt with. The Legal Adviser confirmed that under Regulation 12 of the Licensing Act 2003 Hearings Regulations 2005a panel could be adjourned and arranged for an additional date and that a specific date would be confirmed by all parties very shortly. The Applicant confirmed that they agreed to an adjournment and the Licensing Officer stated that this would be confirmed to all parties very soon.

Summaries

- 71.31 The Officers from the two Responsible Authorities were asked if they wished to sum up, but both the Police Licensing Officer and Licensing Authority Officer confirmed that they did not have any summary. The Police Licensing Officer handed over the list of suggested Conditions, which had been shown the Panel earlier.
- 71.32 The Legal Advisor confirmed that they had no further questions or information to add and that they were clear on the situation.

Decision:

- 71.33 **RESOLVED** – The Panel’s decision was as follows:

That this Panel would be adjourned to the future date of 25th February 2019.

The meeting concluded at 12.15 pm

Signed

Chair

Dated this day of

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The premises is also located just outside of the Special Stress Area, in the area termed in the Matrix Model as 'Other Areas'. The Matrix Model indicates that Off-licences might be granted up to 11pm, but if they are located in densely residential areas, this terminal time may be earlier. The application is therefore asking for a terminal time considerably later than the one indicated in the policy.

The decision-making Matrix on page 17 of the Council's Statement of Licensing Policy states that outside of the CIZ, SSA & Marina Off licences may be granted up until 11pm (or earlier if a densely residential area). The aim is to reduce availability of alcohol to address late-night street drinking, binge drinking and post-loading. There is an obvious disconnect in where alcohol is sold for off consumption and any subsequent nuisance or crime and disorder.

In addition, this premise falls within the electoral area of Preston Park. The premises is also on the border of the St Peters and North Laines electoral ward. According to our Public Health Framework for Assessing Alcohol Licensing, St Peters and North Laines is ranked 1st for 'Police recorded alcohol related incidents' and 2nd for 'All violence against the person', 'All injury violence', 'Non-injury assault' and 'Alcohol suspected ambulance call outs'.

The Licensing Authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy in light of the individual circumstances of the case. I do not believe that the Applicant has demonstrated that there are exceptional circumstances to justify departing from the Policy.

It is my opinion, granting this application would add to the additional burdens and problems in the area. I therefore request this application is refused in line with our Statement of Licensing Policy and the Matrix approach."

Questions to the Licensing Authority Officer

- 71.9 The Chair asked if the Applicant had discussed their application with the Licensing Authority and whether a visit had been made to the premises. The Licensing Authority Officer confirmed that they had not been contacted by the Applicant and that no visit had been made since the premises was closed.

Representation from Consultant in Public Health

- 71.10 The Consultant in Public Health, Peter Wilkinson addressed the Panel and stated the following:

“This application is for a new licence for the off-sales of alcoholic beverages between 7am and 1am five days a week and 7am until 3am on Friday and Saturday days and nights.

These premises are outside but close to the border of St. Peter’s and North Laine ward which is within the special stress area. St. Peter’s and North Laine ward is ranked either the worst or second worst in the city for five of the six alcohol associated crime and disorder indices public health monitor: all violence against the person, all injury violence, non-injury assault, criminal damage and police recorded alcohol-related incidents. The ward is ranked the fourth worst for sexual offences. In addition to the above, for the health data public health monitor, St. Peter's and North Laine ward is ranked the worst for increasing risk or higher risk drinking in the city. This ward is also ranked the second worst for alcohol suspected ambulance call outs, the third worst for A&E attendances with a record of alcohol and the fourth worst for clients in alcohol treatment.

The Applicant has offered a number of conditions to try and ensure that the operation of these premises will not undermine any of the licensing objectives. These include CCTV and Challenge 25 but do not include signing up voluntarily to the “Sensible on Strength” scheme which aims to reduce the availability of cheap super-strength beers and ciders.

The council’s Statement of Licensing Policy matrix to support licensing decisions permits a licence for off-sales until 11pm in the area where this Applicant’s premises are located. However, this application for off-sales until 1am or 3am is not in keeping with the policy’s licensing matrix.

You will be aware that there is already considerable nuisance, crime and disorder from alcohol consumption in the city. This application for an off-sales licence, if accepted would very likely add to this burden from alcohol. Therefore, on the basis that the application is in contradiction with the Licensing Matrix set out in the council’s Statement of Licensing Policy, and that the premises sits close to an area of the city, where the impact of alcohol on nuisance, safety, crime and disorder, is already at a high level, I wish to register my objection to this licence application.”

Questions to the Public Health Officer

- 71.11 Councillor Knight asked the Public Health Officer whether this area was the worst in the city and he replied that it was either the first or second worst area in the city. The Licensing Officer added that there had been 784 incidences involving alcohol in the area. The Public Health Officer added that in this area the increased risk of alcohol related incidents was the highest in the city.

The Applicant

71.12 The Applicant addressed the Police Licensing Officer and stated that he was unaware that he could contact the Police at any time on this matter. He confirmed that he managed two off licence shops : The Booze Shop and one situated on Western Road and stated that he was unaware that this history should have been stated in his application. He also stated that he was unaware of the high levels of crime in the area and whether this new premises would add to these crime levels, since, until now he had worked in different areas. He confirmed that was very open to changing the opening hours and installing cctv if required, although he thought that the premises already had 24 hour cctv operating. The Applicant also confirmed that in regard to staff training on the selling of alcohol, he had received a recent visit from trading standards and had been given the impression from them that his business was in the clear on this matter. He confirmed that since all members of staff already held a personal alcohol licence there were no further risks in this area, since the premises was mainly a convenience store selling food. He confirmed that any alcohol in the premises would be out of easy reach to the public with a cctv camera on the gate and was happy to cooperate with all the authorities on this.

Questions to the Applicant

71.13 The Chair asked why the Applicant was unaware of the complex nature of obtaining a licence in the city, since he already managed two other off licence shops - The Booze Corner Lewes Road and 92 Western Road.

71.14 The Police Licensing Officer asked whether the Applicant was the Designated Premises Supervisor (DPS) of both of the shops and the Applicant replied that he was not the DPS, but owned them. The Police Licensing Officer stated that the CIZ and SSA were mentioned within the Licences of these two premises, since they are located within these areas which contained numerous premises selling alcohol and suffered from public disorder. She explained that all the areas discussed in the panel today were the reasons why the details regarding the matrix and this policy needed to be discussed and she reiterated that opening until 3 am on a Friday night went against this policy. She also confirmed that 24 hour CCTV must have the correct date within it and that a lot of detail was required within the conditions of this policy and she would have expected to have seen this copied from previous licences. She confirmed that if the Applicant had come to the Police for assistance with the application, they would have done a lot of work on these details with the Applicant, since the premises was located four doors away from the Special Stress Area – SSA and that since alcohol was likely to be consumed with the SSA it was the police's job to prevent this from happening.

71.15 The Chair asked the Applicant whether he ran the other premises he mentioned and he confirmed that he did but was not the DPS since he was in the process of transferring this from his current to this premises. He confirmed that Mr Fadi Darouj – his friend who accompanied the Applicant in this hearing would run the shop and that he had a personal licence dated from 2014. Mr Darouj had worked in a shop selling alcohol in Peacehaven for two years and then at The Booze Corner for two years. The Chair then restated that with Mr Darouj's status as a DPS, he also should have known about the conditions required for the application and that therefore she was bemused as to why more information was not submitted within the application.

- 71.16 The Applicant asked the Police Licensing Officer about which conditions required more detail and the Police Licensing Officer replied that the cctv section of licence alone was usually half a page long , and that, due to the history of this premises, the police would expect that this should be listed in detail in order to prevent past problems from re-occurring. The Applicant responded that he had expected these details to be negotiated after the initial application had been received.
- 71.17 The Chair asked the Applicant whether he personally had made the application for the other premises he currently ran and the Applicant replied that his licence had been transferred from his previous premises. When the Chair then asked if he had ever made a licence application himself, he replied that he had not made an application in the Brighton and that he had thought that this detailed information came later in the process. He confirmed that he had never gone through this application process in Brighton and in his previous experience of dealing with Rother Council for a premises in Bexhill, he had been visited by a Licensing Officer who had set out terms during the visit and then he had liaised and negotiated details after this. The Chair then confirmed that for this Brighton application, the Applicant needed to offer the conditions now and that he understood this now.
- 71.18 The Chair then asked the Applicant whether he was already running this premises and he replied that he was not, as the shop was currently closed. He confirmed that he came to buy the premises through the same landlord as his current shop The Booze Corner. The Applicant stated that the landlord has asked if he wanted to take over the business as there had been some problems with the shop. The Chair then asked if the Applicant was aware of the history of problems with this premises and the Applicant replied that he was only aware of the financial problems and was unaware of the previous licence Refusal. The Applicant also confirmed that he had not signed a lease, nor had any firm involvement in the premises to date and was waiting to see if a licence would be granted, before he entered into any further commitment.
- 71.19 Councillor Morris asked the Applicant whether he owned his own company and the Applicant replied that he did own a limited company and then Councillor Morris questioned the Applicant whether he should have checked with a lawyer to print out a lease plan in order to assist with the application. The Applicant confirmed that the plan in the application came from the landlord. Councillor Morris then asked various questions on the plan as to where spirits and tobacco were to be located in the shop within the red line area marked and the Applicant confirmed that the area for storage of alcohol was behind the counter to the side of the freezer used for ice-cream. Councillor Morris stated that he was concerned about the red line, since he felt the Applicant had not clearly indicated where the area for selling alcohol was. The Police License Officer added that he expected fixtures and fittings to be shown on the plan and for any changes to be marked up.
- 71.20 The Chair stated that she was concerned that the Applicant had not looked properly inside the premises yet and the Applicant replied that he had visited the shop but was not aware of any leaks or other structural problems.
- 71.21 Councillor Knight stated that she was concerned about the percentage of alcohol in view on the shop floor of the premises and felt that it would be better to store alcohol at the back. She stated that in the past there had been a problem with alcohol being sold

to underage children in this area and the Chair agreed that the problem had to be addressed but that the alcohol should be sold at the front of the shop to give control to the manager. There was an in-depth discussion about where alcohol should be stored and sold in the shop between the Applicant and panel members.

- 71.22 The Chair then asked why the Applicant had applied for such late opening hours and the Applicant replied that he did not know the area, but had previously run other premises for 24 hour periods and had not envisaged there being any problem with this premises. The Chair replied that the licensing policy in Brighton had changed radically in terms of hours since the Applicant had made his previous application for The Booze Shop and that the Applicant should have recognised this in advance of the application. The Applicant was then showed the new written regulations. Councillor Knight also asked the Applicant why he had not considered that the hours requested as long and the Applicant replied that he expected to open until 3 am at the weekend, but if business slowed at 8pm then he would close then. He said that he was unaware of business hours in the area and was flexible on this. The Chair said that residents had raised objections to the late opening hours and had written letters about their experience of noise disturbance at early hours of the morning in the area and their concern for the premises being previously mis-managed. The Chair stated that there had been a change since the CIZ had been introduced in 2008 and that it was now unheard of to grant these requested long hours in this area. The Chair then asked the Applicant if they were prepared to change the hours to 11 pm at night for the licence. The Applicant confirmed that they would be flexible on this. The Chair also questioned why the Applicant wanted to sell alcohol from 7 am in the morning and he replied that he would not expect to sell alcohol at that time, but that it was a problem having shutters over the alcohol in the shop. There was then a discussion between the Chair and the Licensing Officer about the early hours sale of alcohol and that the opening hours could be specified as different to those hours when alcohol was permitted to be served. The Licensing Officer confirmed that it was usual for premises to be open from 7am but not allowed to sell alcohol until 10 am in order to avoid underage drinkers access to buying alcohol.
- 71.23 Councillor Morris then led a discussion between the panel and all parties about specifying that a blind could be bought at low cost and erected around the area where alcohol was stored in order to uphold any times where the shop was open but alcohol was not allowed to be sold in order to prevent underage drinking and access to alcohol for streetdrinkers. The Applicant confirmed that he would have between 1 – 3 members of staff working at any one time and that cctv had been installed in his other premises and the Chair confirmed that this prevented shoplifting of alcohol.
- 71.24 The Police Licensing Officer asked the Applicant if they were aware of the burglary that had occurred on 3rd January 2019 in the premises and the Applicant replied that he was unaware of this and that the landlord was away in Turkey at present. PC Andre Bernascone stated that £ 30 – 40,000 of stock which included the cctv system, ceiling tiles and wiring had been stolen from the premises in the burglary and the Chair stated that the Applicant should discuss this with the landlord.
- 71.25 The Police Licensing Officer asked the Applicant whether it was the landlord or himself who would be confirming any future decision on licensing hours and the Applicant confirmed that the landlord's name was Mr Kamber Koluman and that the landlord

had given him the impression that the hours in this area may be difficult for the licence. The Police Licensing Officer stated that the shop had been shut since January 2018 and that the premises license had been revoked in December 2017 and since then the owner had not attended any subsequent Appeal hearings, the shop had been closed for some time. The Applicant also confirmed that his company running the The Booze Corner Shop Ltd, based in Lewes Road. He also stated that and the company for the 92 Western Rd premises was Western Rd Convenience Ltd which will transfer to the Applicant's company RSR Brighton Ltd.

- 71.26 The Licensing Officer Mark Savage Brooks stated that conditions would need to be confirmed by the Applicant for the premises and may include details of the sight line of alcohol rather than the precise location within the shop and that this would need to be clear and precisely labelled. The Chair also added that the panel had canvassed the Applicant on hours and wanted to confirm that he agreed to having alcohol on display from 10am, but no sales of alcohol until 11am and that the Applicant could get a roller blind to cover the stock when required. The Licensing Officer, Mark confirmed that a blanket or cardboard could be used instead of a blind, but that it was illegal to have alcohol on display at times outside of the licensed hours. There was then a short discussion about the options available to save costs for covering alcohol in the shop. The Applicant confirmed that he would be prepared to do this, as required.
- 71.27 The Chair confirmed that there was now a new licensing policy and set of requirements which were different to the ones that the Applicant had worked under previously and she asked if the Applicant would be prepared to make changes to conform to these new policies and the Applicant confirmed that he would. The Chair asked the Licensing Officer for confirmation of what percentage of the total stock, alcohol could make up in an off licence store and the Licensing Officer replied that alcohol could make up 15 – 20% of the stock. The Chair then confirmed to the Applicant that they would allow up alcohol to take up to 20% of the shop floor / product display in this shop.
- 71.28 The Applicant then queried the topic of which type of alcohol and its percentage was permitted to be sold and the Licensing Officer replied that there was no list of conditions currently, but the additional condition on cctv could be added. The Police Licensing Officer stated that she did not have a list of conditions with her, since the Police did not want the application in its current incomplete form to be approved. There was then a short discussion on the different options available to the Panel in order to resolve this matter, which included: adjournment so that the application could be re done or refusal so that a completely new licence could be applied for in the future to include the conditions such as staff training and the installation of cctv. The Chair then decided that there should be a break in this meeting so that the panel could address these issues and that the Licensing Officer could check conditions .
- 71.29 After the break, when the Panel reconvened, the Chair stated that it was confirmed that the Applicant had not understood the whole application process and had not liaised with the Police or Licensing prior to submitting their application as they should have done and that the Applicant would probably have more questions for the landlord of the premises. Therefore the Chair stated that the Panel suggested that the Applicant could either withdraw their application and apply again with the assistance of the Police and Licensing or the Panel could refuse the application and then the Applicant would

have the right of Appeal. The Licensing Officer added that he had a written list of 14 relevant off licence conditions that the Applicant would be expected to address. Councillor Morris confirmed that the panel wanted to help the Applicant make his business a success and therefore it would be best for the Applicant to consult appropriately and then re-apply. In response, the Applicant stated that if he were to reapply he would not be adding anything to the application and would prefer to agree to conditions now in the current panel.

- 71.30 There was a short discussion amongst all parties regarding the best way of moving forward with the current application. The Chair concluded the best solution was for this Panel to be adjourned and reconvene at a future date after the Applicant had met with the Licensing officer to confirm a list of conditions and amend the application. The Licensing Authority officer confirmed that the Applicant should come back with amended opening and alcohol sale hours, as previously discussed. The Licensing Officer added that extra representations could be added to the case and the Legal Adviser also confirmed that residents or other representative could be given the opportunity to give their opinions again. Councillor Morris confirmed that it was important to demonstrate to local residents how this application was being dealt with. The Legal Adviser confirmed that under Regulation 12 of the Licensing Act 2003 Hearings Regulations 2005a panel could be adjourned and arranged for an additional date and that a specific date would be confirmed by all parties very shortly. The Applicant confirmed that they agreed to an adjournment and the Licensing Officer stated that this would be confirmed to all parties very soon.

Summaries

- 71.31 The Officers from the two Responsible Authorities were asked if they wished to sum up, but both the Police Licensing Officer and Licensing Authority Officer confirmed that they did not have any summary. The Police Licensing Officer handed over the list of suggested Conditions, which had been shown the Panel earlier.
- 71.32 The Legal Advisor confirmed that they had no further questions or information to add and that they were clear on the situation.

Decision:

- 71.33 **RESOLVED** – The Panel’s decision was as follows:

That this Panel would be adjourned to the future date of 25th February 2019.

The meeting concluded at 12.15 pm

Signed

Chair

Dated this

day of

The meeting concluded at Time Not Specified

Signed

Chair

Dated this

day of