

# Public Document Pack

## LICENSING SUB COMMITTEE

31 MAY 2016

Present: Councillors Charman, Roberts and Street (Chair) with Councillor Sinden in reserve. Also in attendance: Bob Brown, Licensing Manager; Trevor Scrase, Senior Licensing Officer; Mr Peter Savill, Barrister for Sussex Police Authority; Anthony Masters, Sussex Police Licensing Officer, Mrs Jean Irving, Head of Licensing and Public Safety for Sussex Police; Sergeant Vokins, Sussex Police Licensing Team, and Sergeant Varrall, St. Leonards Neighbourhood Policing Team.

### 50. APPOINTMENT OF CHAIR FOR THIS MEETING

In accordance with the terms of reference of the Licensing Committee, the Chief Legal Officer invited nominations for the appointment of Chair for the duration of the meeting. Councillor Roberts moved that Councillor Street should take the Chair. This was seconded by Councillor Charman.

**RESOLVED (unanimously) that Councillor Street be appointed as Chair for the duration of the meeting.**

### 51. APOLOGIES FOR ABSENCE

None.

### 52. MINUTES OF THE MEETING HELD ON 18 JANUARY 2016

**RESOLVED that the minutes of the meeting held on 18 January 2016 be approved and signed by the Chair as a true record.**

### 53. DECLARATIONS OF INTEREST

None.

### 54. NOTIFICATION OF ANY ADDITIONAL URGENT ITEMS

None.

### 55. APPLICATION FOR PREMISE LICENCE - YELLA SHOP

Members of the Committee, Officers, the agent, manager of Yella Shop introduced themselves. Councillor Street set out the procedure that the Sub-Committee would adopt (in accordance with Standard Practice).

The Licensing Manager, Bob Brown, presented the report of the Assistant Director of Environment and Place in respect of an application made on 4 April 2016 under section 17 of the Licensing Act 2003 for a new Premises Licence at Yella Shop, 34 Kings Road, St. Leonards on Sea, as a result of fourteen representations received. Mr Brown, Licensing Manager, presented the report.

The premises is operating as a convenience store, and the application as originally submitted was to have supply of alcohol for off sales on Monday to Saturday from

## LICENSING SUB COMMITTEE

31 MAY 2016

08.00hrs to 23.00hrs and Sunday from 10.00hrs to 23.00hrs and to have opening hours of the premises, Monday to Sunday from 06.00hrs to 23.00hrs.

Following agenda publication, the following supplementary information was received from Arka Licensing (agent for applicant):-

Date received: 22 May 2016 – Email received from Arka Licensing stating: 'The applicant has considered the representations received. He has decided to address those concerns with the following additional conditions to be added as part of the operating schedule:-

1. No Spirits shall be sold at the premises in bottles of less than 35cl.
2. Alcohol products labelling. All products sold at the premises shall be marked with a label or marker pen clearly stating the name of the premises.
3. Spirits will only be displayed behind the till counter and will not be directly accessible to members of the public.
4. Alcohol will be fully covered with no visibility to public outside the alcohol licensing hours.
5. The Change of licensing hours to 09.00 to 21.00 hours'.

Date received: 26 May 2016 – Email received from Arka Licensing containing duplicate letters individually signed and addressed in support of the proposal and a petition containing 93 signatories submitted by the Yella Shop, requesting the support from customers, neighbours and interested parties.

Date received: 31 May 2016 – Email received from Arka Licensing: Letter dated 25 May 2016 containing a statement from Mr Navarajah Navapalan, owner of The Promenade Super Shop, 5 Eversfield Place, St. Leonards on Sea, confirming Mr Anton Thervarasa was employed by them between 01/12/2013 and 31/12/2015.

The committee administrator confirmed the supplementary information was published on the council's website in addition to the agenda. Members confirmed they had received and read the supplementary information.

The premises was located within area 3 (Central St Leonards) of the Council's Special Saturation Policy (Cumulative Impact). During the 28 day statutory consultation period, a representation against the application had been received from Chief Inspector Paul Phelps, Hastings & Rother District Commander and a witness statement from Sergeant Christopher Varrall, Officer for St. Leonards neighbourhood policing team. A representation had also been received from Trevor Scrase, Senior Licencing Officer at Hastings Borough Council and also the local ward members, Councillors T Webb and T Dowling. Eleven representations from local interested parties had been received at the time the agenda was published.

The Licensing Manager stated that the proposed operating conditions could not be accepted as a change to the application because the proposal had not gone through the consultation process.

Mr Savill, Counsel for Sussex Police Authority, made his representation on the grounds of the prevention of crime and disorder. He referred to the witness

## LICENSING SUB COMMITTEE

31 MAY 2016

statements provided by Sussex Police in the agenda and commented on the anti-social behaviour of members of the street community. He said the applicant had failed to demonstrate any exceptional circumstances to justify departure from the council's saturation policy for St. Leonards town centre saturation zone and that the steps proposed within the operating schedule (it is not premises specific) failed to address the issue of cumulative impact, as such they recommended the premises licence be refused.

Mr Scrase, Senior Licensing Officer, referred to his representation and the issues and measures that had been adopted to deal with the effects of anti-social behaviour caused by street drinkers. He noted an amendment to the report under 'comments on the application', paragraph 1 was withdrawn. He recommended the application be refused.

Mr McGinley, interested party, spoke on behalf of Mrs Cosgrove who was unable to attend the meeting. Both parties had made representations. He said their objections were in regard to the sale of alcohol and that another licence would exacerbate the existing problems of disorder. He felt the multi agency approach was too costly and that the application was unsatisfactory and did not address the saturation zone or negative cumulative impact.

Councillor Webb, ward member for Central St. Leonards & member of ESCC, referred to his joint representation with Councillor Terri Dowling. He stated that his objections related to crime and disorder and public nuisance. He said he received two emails per week regarding street drinking in the area. He referred to the Sussex Police crime stats dated March 2015 to February 2016 when there were 562 recorded cases of anti-social behaviour and 283 recorded instances of violent crime within Central St. Leonards. Many incidents he said go unreported. He was pleased the applicant had reduced the hours of operation from 23.00hrs to 22.00hrs as submitted in the supplementary information.

The applicant, Mr Johnpillai, said he had worked in the local area for 3 years and had managed the shop with this wife. He said he had never sold alcohol to persons under the age of 18.

Mr Kanapathi, agent for the applicant, said the premises had been a convenience store for over 35 years. He said the current application to sell alcohol had been submitted in response to the demand from the customers of the Yella Shop. Customers had signed a petition and submitted letters in support of the proposal for the reason that they did not want to go to another shop to purchase alcohol. The proposal was to sell alcohol among other products to existing customers. He said the cans and bottles of alcohol would be labelled, so the police could trace the supplier. The business he said may not survive financially without selling alcohol.

Mr Brown sought clarification on the storage of alcohol. Mr Kanapathi, said the majority of alcohol would be stored behind the counter. He confirmed the dimensions of the plan appended to the agenda were not accurate.

Members sought clarification and received answers to their questions.

## LICENSING SUB COMMITTEE

31 MAY 2016

In summary, Mr Savill, said that the internal plan was inaccurate and it did not bear accurate dimensions. It was unthinkable to say the applicant and his staff would not sell alcohol to someone other than existing customers. The labelling of alcohol would not help address the issues of crime and disorder in the area. Furthermore, the conditions regarding the internal arrangements would not address the cumulative impact zone.

Mr Scrase said the personal licence was issued three years ago and therefore he would expect a higher level of knowledge from the applicant. Furthermore, the applicant had failed to notify Wakefield Council, the issuing authority of the personal licence, of his change of address since moving to Hastings, which is a legal requirement.

Mr Kanapathi said that the applicant had put forward additional conditions, he felt the labelling of alcohol was a useful and effective method of tracing sales. He suggested they could submit an application for a minor variation to increase space inside the store. Regarding the change of personal address, Mr Johnpillai had a connection with his family in Wakefield. Mr Kanapathi asked the committee to look at the applicants experience, the Yella Shop was a family business and had been trading for a long time.

### **RESOLVED (unanimously) to REFUSE the licence as follows:**

The reason for this decision was:

The applicant has failed to demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

The Committee have made this decision in compliance with the Council's own licensing policy and the guidance issued by the Secretary of State.

### **56. ADDITIONAL URGENT ITEMS (IF ANY)**

None.

(The Chair declared the meeting closed at. 15.46pm)