

**Licensing Authority, Chichester District Council, East Pallant House,
East Pallant, Chichester, West Sussex, PO19 1TY**

Alcohol and Entertainment Licensing Sub-Committee

Date & Time: Thursday 26th January 2023 at 09:30

Venue: Committee Room 1, Chichester District Council, East Pallant House, 1 East Pallant,
Chichester, West Sussex, PO19 1TY

**Application for REVIEW of PREMISES LICENCE
(Application Number – 22/02411/LAPRER)**

Selsey Convenience Store (formerly known as ‘The Rock Shop’)
143 High Street
Selsey
Chichester
West Sussex
PO20 0QB

1. RECOMMENDATIONS

- 1.1 That the Sub-Committee considers and determines the application made by West Sussex County Council Trading Standards Service seeking a review of the current Premises Licence granted in respect of the premises known as Selsey Convenience Store (formerly known as ‘The Rock Shop’), 143 High Street, Selsey, Chichester, West Sussex, PO20 0QB under the Licensing Act 2003 (the ‘Act’).**
- 1.2 That the Sub-Committee considers the contents of this report and any oral or documented evidence during the hearing, and determines the review application in accordance with the Act.**
- 1.3 The Sub-Committee is to give reasons for its decision.**

2. REASONS FOR HEARING

- 2.1 On 12 December 2022, this Licensing Authority received an application from Mr Peter Aston, Team Manager, on behalf of West Sussex County Council Trading Standards Service as a Responsible Authority under the Act, seeking a review of the current Premises Licence (No. 3815/18/02381/LAPRED) granted in respect of the Selsey Convenience Store, 143 High Street, Selsey, Chichester, West Sussex, PO20 0QB.**
- 2.2 The Trading Standards Service submitted the review application under Section 51 of the Act. A copy of the application is attached at Attachment A. It now falls to this Sub-Committee to consider and ultimately determine the review application.**

- 2.3 The grounds for the review are that the following statutory licensing objectives under the Act are not being promoted:
- i) Prevention of Crime and Disorder; and
 - ii) The Protection of Children from Harm.
- 2.4 The application highlights a failed alcohol test purchase conducted at the premises on 23rd August 2022 and subsequent actions thereafter associated with the provision of licensable activities and management practices at the premises. With regard to the failed test purchase on the 23rd August 2022, alcohol in the form of two bottles of Kopparberg cider were sold directly to a person under the age of 18 as part of a controlled Trading Standards Service test-purchasing operation. A person commits an offence under Section 146 of the Act if he sells alcohol to an individual aged under 18. It is reported that the member of staff working at the premises sold the two bottles of cider *“without asking them any questions whatsoever”*. Since submitting the review application, the Trading Standards Service has provided this Licensing Authority with additional evidence/information in support of its review application, and this is provided at Attachment D.
- 2.5 The purpose of this report is to inform the Sub-Committee of the review application received in order that this Licensing Authority can consider whether action is now necessary in order to ensure the promotion of the statutory licensing objectives.
- 2.6 The holder of the current Premises Licence is Mr Sanjakumar Natvarbhai Patel of Hornet News, 112 The Hornet, Chichester, West Sussex, PO19 7JR. Mr Patel is also the current Designated Premises Supervisor (‘DPS’) at the premises. A DPS is ordinarily the key person who is responsible for the day-to-day management of licensed premises at which alcohol may be sold. Mr Patel has held both positions since 28th November 2018.
- 2.7 Within the various papers, there are references to ‘Nick Retail Ltd’. For the avoidance of doubt, Nick Retail Limited is a company registered with Companies House (No. 09924734) but this entity does not hold this particular Premises Licence nor indeed any other Premises Licence granted by this Licensing Authority. However, the Companies House website states that the registered office address of Nick Retail Ltd is 112 The Hornet, Chichester, England, PO19 7JR, and of which the current Director is Chetanaben Patel, and Secretary is Sanjakumar Patel.

3. BACKGROUND

- 3.1 Included in this report are the following:
- Alcohol & Entertainment Licensing Sub-Committee – Protocol;
 - Copy of the application form for review received from West Sussex County Council Trading Standards Service (**Attachment A**);
 - Location plan showing premises subject of review (**Attachment B**);
 - Copy of relevant representations received from West Sussex County Council Public Health and Sussex Police in support of the review application (**Attachment C**);
 - Evidence provided by Trading Standards Services in support of review application (**Attachment D**); and

- Copy of current Premises Licence (No. 3815/18/02381/LAPRED) granted in respect of Selsey Convenience Store (formerly known as 'The Rock Shop') (**Attachment E**).

3.2 At any stage following the grant of a Premises Licence, any person or Responsible Authority may request the Licensing Authority to review a licence because of a matter, or matters, arising at the premises which raise concerns in connection with the promotion of one or more of the licensing objectives, these are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

3.3 In arriving at its decision, the Sub-Committee must have regard to:

- the evidence presented both orally and documented;
- Home Office Guidance issued under Section 182 of the Act (issued December 2022), particularly Chapter 11 (Reviews) at paragraphs 11.1 to 11.29; and
- this Licensing Authority's current Statement of Licensing Policy 2022 to 2027. At paragraph 13.5 of the policy it states that '*When considering an application for a review, the Licensing Authority will carefully consider the wide range of powers available to it under the Act that it may exercise when it considers it appropriate to promote and properly fulfil the licensing objectives. It being recognised that the review process is a key protection for the community where problems associated with the licensing objectives occur.*'

3.4 The Licensing Authority must, having regard to the review application and any relevant representations received, take such steps as it considers appropriate for the promotion of the licensing objectives, these steps are:

- modify the conditions of the Premises Licence (which includes adding new conditions or any alteration or omission of an existing condition);
- exclude a licensable activity from the scope of the licence;
- remove the Designated Premises Supervisor;
- suspend the licence for a period not exceeding three months; or
- revoke the licence.

Of course this Licensing Authority may determine that none of the above are appropriate and may choose to issue a simple written warning or indeed take no action at all.

4. HISTORY AND SUMMARY OF THE REVIEW APPLICATION

4.1 The Selsey Convenience Store is situated in a parade of terraced shops in a mixed commercial and residential area. The parade consists of various small retail units situated along High Street in Selsey.

4.2 The area is densely populated with residential dwellings including flats above many of the shops.

- 4.3 The Selsey Convenience Store occupies a ground floor mid-terrace unit and has been used as a newsagents/convenience store both licensed and unlicensed for many years. A plan showing the location of the premises is at Attachment B.
- 4.4 The Selsey Convenience Store has benefitted from a Premises Licence granted under the Act since 10th August 2012. As mentioned earlier in this report, Mr Patel has however only held the current Premises Licence and been the Designated Premises Supervisor since 28th November 2018. A copy of the current Premises Licence (No. 3815/18/02381/LAPRED) is attached at Appendix E.
- 4.5 As stated above, the Licensing Authority received the application to review the current Premises Licence from West Sussex County Council Trading Standards Services on 12th December 2022.
- 4.6 When submitting the application for review, Trading Standards Service were required to send copies of the application to all the Responsible Authorities under the Act and a copy to the Premises Licence holder, this was duly done.
- 4.7 Following receipt of the review application, a statutory 28-day consultation period began during which representations in respect of the review application could be submitted to the Licensing Authority. The representation period concluded at the end of the 9th January 2023. As part of the review process, the Licensing Authority was required to erect a Public Notice at the premises and display a further copy of this Notice in the main reception area of the Council offices. These requirements were both complied with, and all Notices remained on display for 28 consecutive days thereafter. A copy of the review application was also made available on the Council's website.
- 4.8 The only form of licensable activity authorised by the Premises Licence to take place at the premises is the retail sale of alcohol for consumption off the premises. This licensable activity may take place every day between 08:00-23:00.
- 4.9 The opening hours of the premises specified on the Premises Licence are every day between 05.30-23.00.
- 4.10 West Sussex County Council Trading Standards Service have suggested within the review application that an appropriate outcome of the review would, in their opinion, be the revocation of the current Premises Licence.

5 RELEVANT REPRESENTATIONS

- 5.1 Relevant representations were received during the representation period from West Sussex County Council Public Health and Sussex Police. Both of these were submitted in the capacities of statutory responsible authorities under the Act and the are shown at Attachment C.
- 5.2 The Public Health Directorate state in their representation that they *“wish to support the application by Trading Standards...”* and that they *“concur that the Licensing Objectives of The Prevention of Crime and Disorder and The Protection of Children from Harm are not being promoted.....”*. They further state that they *“are disappointed to learn about the sale of alcohol to children on more than one occasion, which led to one child receiving care from paramedics at a local event”*.

Public Health endorse the recommendation made in the review application by Trading Standards Service to revoke the licence.

- 5.3 Sussex Police have stated in their representation that they “*support the review application by Trading Standards requesting revocation of the premises licence*”. In addition they have stated that “*Should the Council Licensing Committee decide not to revoke the licence, then Sussex police invite the Committee to update the premises licence conditions up to current modern standards by replacing all of the existing conditions in annexe 2 of the licence....*”.

6. CONSIDERATION

- 6.1 In reaching its determination, the Sub-Committee must take into consideration the promotion of the four statutory licensing objectives, the Council’s Statement of Licensing Policy, the current Home Office Guidance along with written and/or oral evidence during the hearing.
- 6.2 It is very important to note that these are the only matters to be addressed by the Licensing Authority when considering this application. The licensing objectives are the only grounds on which representations can be made, and the only grounds on which the Licensing Authority may consider and determine the review application.
- 6.3 Human Rights considerations must be taken into account fully in balancing licensing issues, in particular, article 1 of the first protocol and articles 6 and 8. Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property (holding a licence would be considered a possession). Article 8 relates to the right to respect for private and family life, home and correspondence. Article 6 relates to the right to a fair trial. These are however qualified rights and can be deprived of “in the public interest”. Interference is permissible if what is done: -
- Has its basis in law;
 - Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim,
 - Is proportionate to the aims being pursued; and,
 - Is related to the prevention of crime or, the protection of public order or health or the protection of the rights and freedoms of others.
- 6.4 The Sub-Committee must consider each application on its own merits, and in accordance with the principles of natural justice, as well as the provisions of the Licensing Act 2003. All relevant factors must be taken into account, and all irrelevant factors must be disregarded.
- 6.5 All applications before the Sub-Committee must be considered against the backdrop of anti-discriminatory legislation including the Equality Act 2010 and in accordance with the Council's current Equality Strategy.
- 6.6 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself. In giving "due regard" to these possible implications members will consider

and weigh up all the information available and representations made, including those from Responsible Authorities and any other person(s).

6.7 The Sub-Committee are required to give reasons for their decision.

7. OPTIONS OPEN TO THE SUB-COMMITTEE

7.1 As is stated at paragraph 3.4 above, when considering and determining an application for a review of a Premises Licence, the Sub-Committee have various options available to them so as to ensure the promotion of the licensing objectives. These can be a combination of one or more of the following in respect of the Premises Licence.

- modify the conditions of the Premises Licence (which includes adding new conditions or any alteration or omission of an existing condition);
- exclude a licensable activity from the scope of the licence;
- remove the Designated Premises Supervisor;
- suspend the licence for a period not exceeding three months; or
revoke the licence

7.2 The Sub-Committee may also choose not to take any action and a warning may simply be issued. Any steps necessary to promote the licensing objectives should be specified.

7.3 Under Section 181 and Schedule 5 of the Act, right of appeal to the Magistrates' Court in respect of application for review of an existing licence include:

- The applicant or licence holder may appeal against any decision to modify the conditions of the licence, suspend, or revoke a licence;
- The applicant may appeal against a rejection in whole or part of an application to review; and
- Those that have made relevant representations may appeal against a review being granted, rejected, or against the modification or lack of modification of any conditions.

8. BACKGROUND PAPERS

- Licensing Act 2003 (as amended)
- Home Office Guidance issued under Section 182 of the Licensing Act 2003 (December 2022)
- Chichester District Council's current Statement of Licensing Policy 2022-207

9. ATTACHMENTS

Attachment A	Application for Review made by West Sussex County Council Trading Standards Service
Attachment B	Location plan showing premises subject of review
Attachment C	Copy of relevant representations received from West Sussex County Council Public Health and Sussex Police

Attachment D **Trading Standards supporting evidence**

Attachment E **Copy of current Premises Licence (No. 3815/18/02381/LAPRED)**

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