

**Minutes of a Meeting of the reconvened
WBC Licensing and Control Committee 'B' of
Worthing Borough Council**

Gordon Room, Town Hall, Chapel Road, Worthing

Thursday 19 June 2014 –reconvened meeting on Wednesday 16 July 2014

Councillor Paul High (Chairman)

*Roy Barraclough	Susan Jelliss
Keith Bickers	Kevin Jenkins
*Callum Buxton	Sean McDonald
James Doyle	*Dr Heather Mercer
*Norah Fisher	Louise Murphy
Diane Guest	Mark Nolan
*Paul Howard	Luke Proudfoot

*Absent

LCCB/14-14/07 Declarations of Interest

There were no declarations of pecuniary interest made

**LCCB/14-15/08 Licensing Act 2003 – Application for a review of Premises Licence –
Bargain booze**

Before the Committee was a report by the Director of Customer Services, a copy of which had been circulated to all members and a copy of which is attached to the signed copy of these minutes as item 3. The committee was asked to consider and determine the application from Sussex Police for a 'review' under section 53A of the Licensing Act 2003 (the 2003 Act) of Premises Licence No. LN/100001461 which authorised the sale of alcohol, for consumption off the premises, at 'Bargain Booze' 4-6 South Street, Tarring. An application for the expedited review had been received from the Chief Officer of Sussex police.

On the 28 May 2014 the committee had considered an application under section 53A of the Licensing Act which compelled the licensing authority to consider the taking of interim steps within 48 hours of receipt of the application. The decision of the committee was outlined in the report before members and it was detailed that interim steps had been taken to suspend the licence of the premises until a further decision of the Committee had been made in that matter.

The committee met again on the 19 June 2014 and prior to any evidence being heard the respondent sought a month long adjournment with the support of the applicant. The committee agreed to the adjournment and it was further agreed at that meeting that the hearing be reconvened at 6.00pm on the 16 July 2014.

The meeting was adjourned at 6:00pm to await the arrival of solicitor for the respondents

The meeting reconvened at 6.30pm

The senior licensing officer introduced the report to the committee. Members were given a summary of the application before them. The applicant confirmed that the senior licensing officer had given an accurate outline of the application.

The respondent's solicitor tabled an email sent to the senior licensing officer to the committee that outlined his client's intentions, a copy of the email is attached to a signed copy of these minutes. The committee was told of the respondent's intention to sell the business known as bargain booze, he stated that it was hoped that business could have been sold and the licence transferred to identified prospective buyers prior to the hearing. This would therefore remove any impediment to upholding of the licensing objectives whilst financially benefitting the landlord of the property (who was owed arrears) and the franchise bargain booze (who were owed monies). The respondent's solicitor stated that he had been mistaken to believe that the date of the reconvened hearing was the 22 July he also asked the committee to consider that the allegations made in respect of his client were unresolved and asked that the matter be adjourned for a further four weeks. It was stated that during the adjournment the respondent had no objection to suspension of the licence being maintained and that the licensing objectives would continue to be upheld by that during the period of that suspension.

The chairman invited the applicant to comment on the respondent's request for a further adjournment. The barrister acting on behalf of the applicant stated that the applicant would oppose the adjournment. The matter was an expedited hearing and expressed disappointment that the respondent had made so little progress since the hearing had been adjourned in mid-June. It was argued that there was no reason for the committee to adjourn the hearing. In particular the Committee should promote the licensing objectives and the wider community and not the financial situation of the individual licence holder.

The meeting adjourned at 7.05pm to consider the application for adjournment

The meeting reconvened at 7.19pm

The chairman informed all parties present that the matter had been discussed and that the committee had unanimously decided to reject the application to adjourn the hearing

The barrister for the applicant informed the committee that the premises had been the subject of two previous reviews both of which had resulted in a suspension of the licence and the last review had resulted in a change of the designated premises supervisor. It was stated that the two previous reviews had not worked. It had only been three months since the last review of the premises.

The barrister for the applicant detailed that following the execution of a warrant under section 26 of the Theft Act hundreds of potentially stolen items had been found at Bargain Booze and Gadgets, he went on to list those items that had been positively identified as stolen. He went on to list a number of goods displayed for sale that had since been proved to be counterfeit and listed further potentially counterfeit Vodka and Sambuca found within. He detailed an incident of serious violence against a street drinker where a bystander had called the police because the street drinker was reported to have been kicked on the floor which had resulted in a fractured eye socket and a broken toe.

The barrister for the applicant highlighted relevant paragraphs from the Licensing Act that he felt supported the applicant's application. It was stated that the proportionate and appropriate response was for the committee to revoke the respondent's licence.

A member referenced evidence within the report and asked why the police had contended that the shop had become known locally as a focal point for criminal activity without providing the committee with evidence of that. The barrister for the applicant stated that the police had obtained a warrant to search the properties under section 26 of the Theft Act, this was issued by a justice of the peace based upon information presented that could not be disclosed. However the very fact that a warrant had been issued showed that there was relevant evidence for the warrant to be issued.

A representative from West Sussex Trading Standards (WSTS) made a representation and answered questions from members relating to the burden of proof regarding the alleged non-payment of duty and any alleged counterfeit nature of alcohol.

The respondent's solicitor asked the WSTS representative if HMRC had come back to WSTS about the seized alcohol. The respondent advised that HMRC would liaise with police about the alcohol. The WSTS representative was also asked if he was aware Gadgets had been operating at the time the counterfeit mobile phone cases had been seized.

The respondent's solicitor made his representations. Members were told that strong assertions had been made by the applicant that needed to be tempered. The intention of the respondent was to not actively seek to trade at the premises. It was asserted that the licensing objectives were unaffected as one premises licence had been surrendered (Gadgets) and one premises licence would be transferred of when bargain booze was sold.

It was asserted that the issue concerning the stolen goods was serious but it was ongoing and had not been proved. He informed members that Gadgets had been a place where goods were repaired and the status of all of the goods retrieved by the police had not yet been established. Members were also informed that Gadgets had not been trading at the time of the police raid. The counterfeit phone cases had been on display in the shop but had not been sold, they had been in the shop when it was taken over by the respondent. The respondent told Members that he had an invoice for the Sambuca and that he did not have the invoice to hand at the time of the raid. Members were told that a number of alcoholic items had been seized in the raid but had been returned as legitimate items.

The respondent's solicitor informed members that the respondent did not want any more trouble and that he intended to dispose of the premises. It was related that the sale of the business (Bargain Booze) would fund money owed to the landlord and the franchise company, there would be no financial gain to the respondent. The committee were given details of the proposed sale of the business.

The respondent's solicitor reminded members that the respondent had not had a chance to defend himself against the allegations made by the police.

A member asked why the committee had not been shown earlier evidence of the receipt of the allegedly counterfeit Sambuca. The respondent stated that the focus had been on selling the business but that the document had been given to the barrister who had worked on the respondent's case previously.

A member asked the respondent about the alleged assault in light of the licensing objective 'prevention of crime and disorder'. The respondent stated that he had removed a street drinker from his store and that he had felt scared because he thought the street drinker was holding a weapon so he had punched him in self-defence. He told members that the CCTV of the incident was with the police and that he was not known as a violent person locally.

A member questioned the respondent on the status of the seized bottles of vodka. It was purported that the bottles had been the subject of the previous review and had been returned by customs and excise as legitimate only for the bottles to be confiscated in the recent raid and returned to customs and excise again.

The respondent was asked if the proposed buyers of the business were known to the seller and why the process to sell the property had taken so long. The Committee was told that the proposed buyers were not known to the applicant and that the sale had taken longer than expected due to an initial buyer withdrawing from a proposed sale.

The barrister for the applicant asked if there was any confirmed connection between the serial

numbers of the alleged counterfeit vodka seized and the alcohol returned from customs and excise following the last review. The respondent's solicitor stated that customs and excise took eight months to return the last batch and they had not received any information from customs and excise following the latest seizure.

The barrister for the applicant asked the respondent's solicitor to confirm that he had seen a picture with a stolen laptop inside a blue box marked Bargain Booze which was shown to him earlier in the meeting. He also asked if the solicitor to confirm that the revocation of the licence would reduce the price of the business and there was nothing to prevent a new tenant applying for a new licence. He also asked the solicitor for the respondent if the landlord and franchise holder could seek to retrieve their money through the courts if there was not enough from the sale of the business to pay them off. The solicitor confirmed all of the points in the affirmative

The solicitor for the respondent purported that Gadgets had not been trading at the time of the police raid. The barrister for the applicant pointed out that this contradicted the evidence contained within the report before members that indicated that the shop had been open and trading for two weeks prior to that point.

In summing up the solicitor for the respondent stated that:

- His client had indicated his intention to sell the business and that losses from the sale would still be significant even if the licence was not revoked;
- The allegation of criminality at the premises was still being investigated;
- Historically assertions had been made which had subsequently been uncovered as incorrect;
- The Committee were asked to suspend the licence rather than revoke it.

In summing up the barrister for the respondent stated that it was inexcusable that the premises had been up for review for the third time in two and a half years with the latest review being only three months since the last. The opinion was given that there was every reason that it was appropriate and proper for the Committee to revoke the licence.

The meeting adjourned at 8.38pm for the Committee to consider its decision

The meeting reconvened at 9.10pm

All parties present were told that in reaching its decision, the Licensing and Control Committee 'B' gave due regard to the Home Office guidance, the Council's own Licensing Policy and relevant licensing legislation. The Committee had also given regard to Human Rights legislation and the rules of natural justice. Due consideration was given to all representations made at the hearing and in writing. In discharging its functions the Committee had done so with a view to promoting the Licensing Objectives, the relevant objectives here were the Prevention of Crime and Disorder.

Resolved: The decision of the Committee was that the premises licence should be revoked. Further, the interim measure of a suspension, taken at the expedited Committee hearing on 28 May 2014 and extended at the Committee on 19 June 2014 when this matter was adjourned, does continue until this matter has been disposed of by the Magistrates Court.

Reasons for Decision: the Committee considered the historical and repeated breaches of the licence, and in particular that the licence on the same premises has been previously suspended on two occasions. The Committee now believes that the only reasonable and proportionate action to take is to revoke the licence.

**LCCB/14-15/09 Licensing Act 2003 – Application for a review of Premises Licence -
Gadgets**

Before the Committee was a report by the Director of Customer Services, a copy of which had been circulated to all members and a copy of which is attached to the signed copy of these minutes as item 4.

In relation to 'Gadgets' the Committee were told that the applicant had surrendered the Licence for the premises and the matter would no longer need to be determined by the Committee.

The meeting was declared closed by the Chairman at 9:20pm., it having commenced at 6.00pm.

Chairman