



Communities Directorate

30 March 2014

Licensing and Control Committee 'B'

Date: 9 April 2015

Time: 6.30pm

Venue: Gordon Room, Town Hall, Worthing

Committee Membership: Councillors: Paul High (Chair), Mark Nolan (Vice-Chair), Roy Barraclough, Keith Bickers, Callum Buxton, Diane Guest, Paul Howard, Kevin Jenkins, Sean McDonald, Dr Heather Mercer, Louise Murphy, Norah Fisher, Robert Smytherman, James Doyle, Susan Jelliss

Agenda

Part A

1. Declarations of Interest

Members and Officers are invited to make any declarations of disclosable pecuniary interests that they may have in relation to any items on this Agenda. The declaration should refer both to the nature of the interest as well as its existence.

Members and Officers may seek advice upon any relevant interest from a Legal or Democratic Services Officer prior to the meeting.

2. Public Question Time

To receive any questions from Members of the public in accordance with Standing Order 3.12.

(Note: Public Question Time will last for a maximum of 15 minutes)

3. Licensing Act 2003: application for a review of a Premises Licence under Section 51: - 'The Shop' – 71 Chapel Road, Worthing, BN11 1HU

To consider a report by the Director for Communities, copy attached as item 3

Part B - Not for Publication – Exempt Information Reports

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**Licensing Act 2003
Application for a Review of a Premises Licence under Section 51**

**'The Shop'
71 Chapel Road, Worthing, BN11 1HU**

Report by the Director for Communities

1. Recommendation

- 1.1 That the full Licensing & Control Committee B consider and determine the application from:

West Sussex County Council Trading Standards Service
for a 'Review' of Premises Licence No. LN/000001618 which authorises the sale of alcohol, for consumption off the premises, at the above store.

2. Reasons for the Hearing

- 2.1 An application for the Review of the above Premises Licence held by:

Mr Ashish Soni & Ms Yogita Patel

on the newsagents, convenience store & off licence known as 'The Shop', has been received from Philip Lipscomb, Operation Manager, on behalf of West Sussex County Council Trading Standards Service - a Responsible Authority as defined in the Act.

- 2.2 Worthing Borough Council is the Licensing Authority that granted the above licence and it therefore falls to members to determine this application.

3. Background

- 3.1 The store is situated in Chapel Road in a parade of small shops on a busy main thoroughfare in a mixed commercial/residential area. The premise has traded for many years as a 'local newsagents' without a licence and was known as 'News Corner' until recently.
- 3.2 A premises licence authorising the sale of alcohol, for consumption off the premises, was granted to Mr Ashish Soni & Ms Yogita Patel in November 2006. Originally this licence had limited daytime hours. The timings were extended by

variation to more conventional later 'off licence' hours in January 2013 and the shop developed into a 'convenience store/off licence'.

- 3.3 Mr Ashish Soni is the current Designated Premises Supervisor (DPS). He holds a Personal Licence issued by Crawley Borough Council.
- 3.4 Mr Lipscomb made application to Worthing Borough Council on 13 February 2015 for a review of the premises licence at the above store.
- 3.5 Attached to the report are copies of:
- A plan of the area. (Appendix A)
 - A plan of the store. (Appendix B)
 - The application for Review (Appendix C)
 - The current Premises Licence. (Appendix D)
 - A representation made by Sussex Police (Appendix E)
 - Mediated between applicant and licence holder (Appendix F)
- 3.6 The current Premises Licence authorises:
- a) Sale of alcohol, for consumption off the premise, between:
08.00hrs and 23.00hrs Monday to Sunday incl.
 - b) Hours the premise opens to the public:
06.00hrs and 23.00hrs Monday to Sunday incl.

4. The Application

- 4.1 The Application for Review is attached at **Appendix C**.
- 4.2 The application is made on behalf of West Sussex County Council's Trading Standards Service, a responsible authority as defined in Section 13 of the Act, and includes detailed information supporting their case that the licence holder is undermining the Licensing Objectives:
- Prevention of Crime & Disorder
 - Public Safety
 - Protection of Children from Harm
- by selling cigarettes and alcohol to persons under 18 yrs. of age in contravention of:
- Section 7 of the Children & Young Persons Act 1933.
 - Section 146 of the Licensing Act 2003
- 4.3 The application gives details regarding two failed test purchase operations:
- 8 January 2015 – WSCC Trading Standards operation where tobacco was sold to a volunteer aged 16yrs & 8months old.
 - 15 January 2015 – Sussex Police operation where alcohol was sold to two volunteers aged 16yrs old.
- 4.4 The application requests members consider:
- Imposing of a number of specific conditions to the premises licence.
 - Issue an Informal warning to the licence holders and/or suspend the licence

5. Promotion of the Licensing Objectives

5.1 The Licensing Act 2003 and its regulations require that the Council, as local licensing authority, carries out its functions with a view to promoting the four licensing objectives:

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

According to the Home Office Guidance each objective is of equal importance. It is important to note that there are no other licensing objectives, so that these four objectives are paramount considerations at all times.

5.2 In carrying out its licensing functions, the licensing authority must also have regard to the aforementioned Guidance issued by the Home Secretary and its own Statement of Licensing Policy. Members are advised that the following sections of the Worthing Borough Council's Policy may be particularly relevant to consideration of this matter, though of course the Policy in its entirety must be considered. Sections indicated relate to paragraph numbers in the Policy itself:

Prevention of crime and disorder

4.2 *The Council places huge importance on the prevention of crime and disorder. A high standard of control is, therefore, expected to be exercised over licensed premises.*

4.3 *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, the Guidance issued under section 182 to the Act and this policy. The Council will give "due regard" to all possible implications and its Licensing & Control Committee will always consider all the information available and relevant representations made, including those from interested parties and the responsible authorities, particularly the Police.*

Protection of Children from Harm

4.28 *It is an offence to sell alcohol to an individual aged under 18. Licence holders are required to consider carefully ways to ensure that the sale of alcohol is restricted to those over the age of 18. Popular schemes include the 'Challenge 25 scheme' whereby if the individual looks under 25; they are required to prove that they are over the age of 18 when buying alcohol or tobacco. Acceptable forms of proof are: a photo card driver's licence, passport or PASS. PASS is the national guarantee scheme for proof-of-age, which is fully supported by the Home Office. Applicants are encouraged to introduce such schemes and detail them in operating schedules. The council may impose conditions requiring such schemes if relevant representation is received. Special care should be exercised and the licensed trade should be alert to counterfeit IDs and their fraudulent use.*

Off sales of alcohol – Stores & Supermarkets

- 7.1 *The Home Office Guidance to the Act recommends that shops, stores and supermarkets selling alcohol should generally be permitted to match the hours during which they may sell alcohol with their normal trading hours, unless there are exceptional reasons related to the licensing objectives, in particular ‘the prevention of crime and disorder’ and ‘the prevention of public nuisance’.*
- 7.4 *Selling alcohol to a person who is drunk or to a person who is under the age of 18 are both offences under the Licensing Act. The council recognises that the vast majority of licensees are very aware of their responsibilities and the duty of care they have selling alcohol to the public. However, the council takes both these issues extremely seriously.*
- 7.5 *The Council considers it vital that licence holders provide formal and effective training to all staff involved in the sale of alcohol to recognise members of the public who are drunk or underage and give their staff the ability and confidence to refuse service. The council will expect operating schedules to demonstrate that the licence holder has considered such matters and addressed them as far as possible and that formal training records are kept on the premise and are to be made available for inspection by Police and/or Licensing Unit officers on request.*
- 7.6 *Over recent years problems associated with street drinking have been experienced across the borough but particularly in the town centre, on the promenade, the beach and Worthing’s public parks & gardens. While there are some areas with recurring problems with regard to street drinking groups they also crop up in different areas at different times. These individuals and the shops that supply them can be a focus of antisocial behaviour, disorder and disturbance. The supply of alcohol to individuals involved in the day-long consumption of alcohol on the street and in open spaces can directly lead to these groups of drinkers causing various types of crime, public nuisance and anti-social behaviour.*
- 7.11 *When requested by the police, or other authorities, the Licensing Authority may impose on new applications, or on existing licences at review, conditions requiring:*
- *No sales of alcoholic beverages over a specified limit of alcohol by volume or of specified quantities (e.g. of beers, lagers and ciders over 6.0% alcoholic content by volume).*
 - *No sales of single cans or bottles of beer, lager and cider in containers containing less than 500ml.*
 - *No sales of miniature bottles of wine or spirit in units of less than 35cl.*
 - *Other conditions may be imposed directed at reducing problematic street drinking.*
 - *Conditions stopping irresponsible drink promotions that do not follow best practice, that would appeal to underage drinkers or street drinkers or encourage excessive consumption.*
 - *Conditions relating to the positioning of alcohol within the shop and the types of displays of alcohol within the store. Particularly those displays that might appeal to younger consumers.*
- 7.12 *From October 2010 it became a mandatory condition that all licence holders selling alcohol put in place an age verification policy for the premises. In some circumstances the Council will impose, where necessary to promote the licensing objectives, implicit conditions on the checking of the age of those who appear under 21 or 25 to ensure that alcohol is not sold to those under 18 years of age.*

- 7.13 *Licence holders need to have sufficient day to day control of operations at their premise. They will be held responsible for breaches of the licence and ensuring there is adequate staffing and training. The authorities will continue to use young people for the 'test purchasing' of alcohol and CCTV evidence, which has proved its usefulness in prosecutions for unlawful sales of alcohol. The likely consequences of a review of licence for underage sales include the imposition of additional conditions such as the attendance of a personal licence holder, licence suspensions and in some cases revocation to act as deterrence.*

Enforcement

- 9.1 *Once licensed, it is essential premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the 2003 Act and the Council will make arrangements to monitor premises.*

Reviews

- 10.9 *The 2003 Act provides a clear focus on the promotion of the four statutory licensing objectives which must be addressed when licensing functions are undertaken. The Act provides tough powers, in the form of the review procedure, to enable licensing authorities to bring the minority of badly managed premises, which are failing to promote the licensing objectives, into line with the best.*
- 10.11 *When considering an application for a Review the priority of the Licensing Authority will be to establish the cause or causes of the concerns and failures and to take necessary and proportionate remedial action.*
- 10.12 *However, when considering applications for Review arising in connection with crime (this includes underage alcohol sales) deterrence is an appropriate objective. Whilst punishment may not strictly be a valid tool on an application for Review in cases where there has been activity in connection with crime, deterrence can be. The Licensing Authority will not confine its decision simply to considerations of remedying. To simply re-emphasise conditions which clearly have not been adhered to in the past will not in most cases prevent further breaches of the law in the future and consequently would not promote the Licensing Objectives.*

6. Consultation

- 6.1 The application has been subject to the statutory consultation and statutory public advertisement arrangements in accordance with the provisions of the Act, in respect of which representations have been received from the following:
- Members of the public – None
 - Responsible Authorities – 1 from Sussex Police

7. Relevant Representations

- 7.1 As a result of consultation the application has received one relevant representation. A copy of the representation made by Sussex Police is reproduced in full at Appendix E. The content of which is considered to relate to the statutory licensing objectives as follows:
- Prevention of Crime & Disorder
 - Protection of Children from Harm

7.2 Sussex Police have stated they fully support West Sussex Trading Standards recommendation that this authority considers suspending the licence, to act as a deterrent. In light of the circumstances, two failed test purchase operations, the police initially suggested a suspension of licence for four weeks.

8. Mediation

8.1 As part of the review process the Licensing Act encourages, where possible, mediation. In this case mediation has been embarked on with some success and copies of the relevant correspondents are attached at **Appendix F**.

8.2 Mediation between West Sussex Trading Standards Service and the licence holder, Mr Ashish Soni, has been partially successful and an agreement reached on the following conditions which both parties agree as appropriate measures to promote the licensing objectives. They invite members to impose these as enforceable conditions of licence:

- Condition 1 – all staff engaged in selling tobacco or any other age restricted products shall receive full training in relation to the Licensing Act and other appropriate legislation.
- Condition 2 – induction training must be completed, and fully documented, prior to the sale of tobacco by staff and refresher training must be completed in a period of no less than six months. Documentation should be retained.

8.3 Two further conditions have been discussed but agreement has not been reached on:

- Condition 3 – a suitable till prompt is introduced to remind staff to check and confirm that the customer is over 18 before selling tobacco, alcohol or any other age restricted product.
- Condition 4 – the serving counter is kept clear and free of all products to allow staff a clear view of shop and customers.

8.4 Mr Soni states that whilst he would like to commit to condition 3 by either updating or replacing the till to include a till prompt, the business is not in a financial position to commit to this currently. In addition, whilst there are lottery and scratch card terminals at the till area, he does not believe that this obstructs the view from the point of view of the customer or staff. Items such as special offers would not be placed in the till area which would obstruct either the staff or customer's view. The till is also positioned so that staff can keep a close eye on the alcohol available for sale in order to try and prevent theft.

8.5 Mediation has also been successfully conducted between the applicant and Sussex Police and their agreement recommends members consider imposing a seven-day suspension as a suitable resolution to the matter.

9. Consideration

- 9.1 The legislation provides a clear focus on the promotion of four statutory objectives, listed at 5.1 above, which must be addressed when licensing functions are undertaken. Each objective is of equal importance and it is important to note that there are no other licensing objectives, so that these four objectives are paramount considerations at all times.
- 9.2 When determining this application members need to carefully consider the following:
- The four statutory licensing objectives
 - Worthing Borough Council's 'Statement of Licensing Policy'
 - Guidance issued under Section 182 by the Home Secretary
 - The application, relevant representations and the testimony of the parties.
- 9.3 These are the only matters to be addressed by the authority when considering this review application. The statutory licensing objectives are the only grounds on which representations can be made, and the only grounds on which an authority will be able to refuse an application, suspend or revoke a licence or impose conditions.
- 9.4 When considering an application for a review, pursuant to s51 of the Act, the following options are available to the Committee to ensure promotion of the Licensing Objectives:
- Take no action.
 - Issue an informal warning to the licence holder and/or recommend improvement within a particular period of time.
 - 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 because they consider the problems are the result of poor management.
 - Suspend the licence for a period not exceeding three months
 - Revoke the licence.
- 9.5 In this case particularly consideration should be given to the partial agreement arrived at between the applicant and licence holder (see paragraphs 8.2 – 8.4) and the agreement reached between the Police and licence holder (see paragraph 8.5). Members should consider the conditions proposed and conditions agreed and satisfy themselves that the conditions listed could allow the Licensing Objectives to be met and whether in this case a suitable deterrent is appropriate and if deemed required whether the suspension agreed would address that need.
- 9.6 If members are satisfied with the results of the mediation then it is recommended that the conditions are noted and imposed on this Premises Licence. If, however, members are not satisfied and of a mind to impose a different decision then the importance of paragraph 9.9 of this report must be emphasised in that the committee must give clear and precise reasons for their decision so that it can be defended in a court of law if necessary.

9.7 In determining an application for a review the following sections of the Home Secretary's Guidance issued under section 182 of the Licensing Act 2003 (Amended – October 2014) should be taken into account,

Powers of a licensing authority on the determination of a review

- 11.16 *The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.*
- 11.17 *The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.*
- 11.18 *However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.*
- 11.19 *Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:*
- *modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;*
 - *exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);*
 - *remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;*
 - *suspend the licence for a period not exceeding three months;*
 - *revoke the licence.*
- 11.20 *In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.*
- 11.21 *For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.*
- 11.22 *Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.*

11.23 *Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it is always important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence*

Review of a premises licence following persistent sales of alcohol to children

11.30 *The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.*

9.8 Members should also have regard to relevant case law - Crown (Bassetlaw District Council) v Worksop Magistrates' Court – 2008

The judgment by Mrs Justice Slade in the High Court in a Judicial Review applied for by Bassetlaw District Council regarding a judgement of a District Judge sitting at Worksop Magistrates' Court in respect of a Licensing Act Appeal for Select & Save has established a number of principles.

1. *The general approach of Licensing Authorities on a Review is to establish the cause or causes of the concerns and to take remedial action which is necessary and proportionate.*
2. *However, when considering Reviews arising in connection with crime (and underage sales are included) deterrence is an appropriate objective and one contemplated by the Secretary of State in the Guidance.*
3. *Whilst punishment may strictly not be a valid tool on a Review, in Reviews where there has been activity in connection with crime, deterrence could be.*
4. *The Licensing Authority and courts should not confine their decision simply to considerations of remedying. Deterrence should be considered.*
5. *To simply re-emphasise conditions which clearly haven't been adhered to in the past is not going to prevent further underage sales in the future, and therefore will not promote the Licensing Objectives.*

9.9 In all cases members are required to give reasons for their decision.

10. Legal Implications

- 10.1 Under Section 181 and Schedule 5 of the Act, rights of appeal to the Magistrates' Court in respect of applications for review of an existing licence include:
- a) The applicant or licence holder may appeal against any decision to modify the conditions of the licence, suspend or revoke a licence.
 - b) The applicant may appeal against a rejection in whole or part of an application to review.
 - c) 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.
- 10.2 The Act allows for the local licensing authority to undertake a review following the grant of a premises licence, when requested to do so by a responsible authority, such as the police or the fire authority, or any other party, such as a resident living in the vicinity of the premises. The government's guidance states:
- "The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with licensing objectives are occurring after the grant or variation of a premises licence".*
- "At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives".*
- 10.3 In determining this application, the principles of the Human Rights Act 1998 must be taken into consideration and the convention rights of both individuals and businesses will be given due weight.
- 10.4 Members 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.
- 10.5 All applications before Committee must be considered against the backdrop of anti-discriminatory legislation, such as the Equality Act 2010 and also in accordance with the Council's stated policy on Equal Opportunities.
- 10.6 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 the public and the responsible authorities particularly the Police.

11. Other Implications

- 11.1 Any decision taken will have regard for the local environment and, in particular, any conditions attached for the purposes of preventing public nuisance will take this principle into account. There are no significant direct race relations or equal opportunity implications that have been identified.

12. Recommendation

- 12.1 Members are requested to determine the application by West Sussex County Council Trading Standards Service for a Review of the Premises Licence, held by Mr Ashish Soni & Ms Yogita Patel at their store, 'The Shop' situated in Chapel Road, Worthing. Members are requested to give reasons for their determination.**

**John Mitchell
Director for Communities**

Principal Author and Contact Officer:

Simon Jones, Senior Licensing Officer
Telephone 01273 263191.

Background Papers:

- Licensing Act 2003
- Guidance issued under section 182 of the Licensing Act 2003 (October 2014)
<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>
- Worthing Borough Council's Statement of Licensing Policy
<http://www.adur-worthing.gov.uk/licensing-and-permits/consultations-policy-forum/policy-and-forum/#policy>

Appendices:

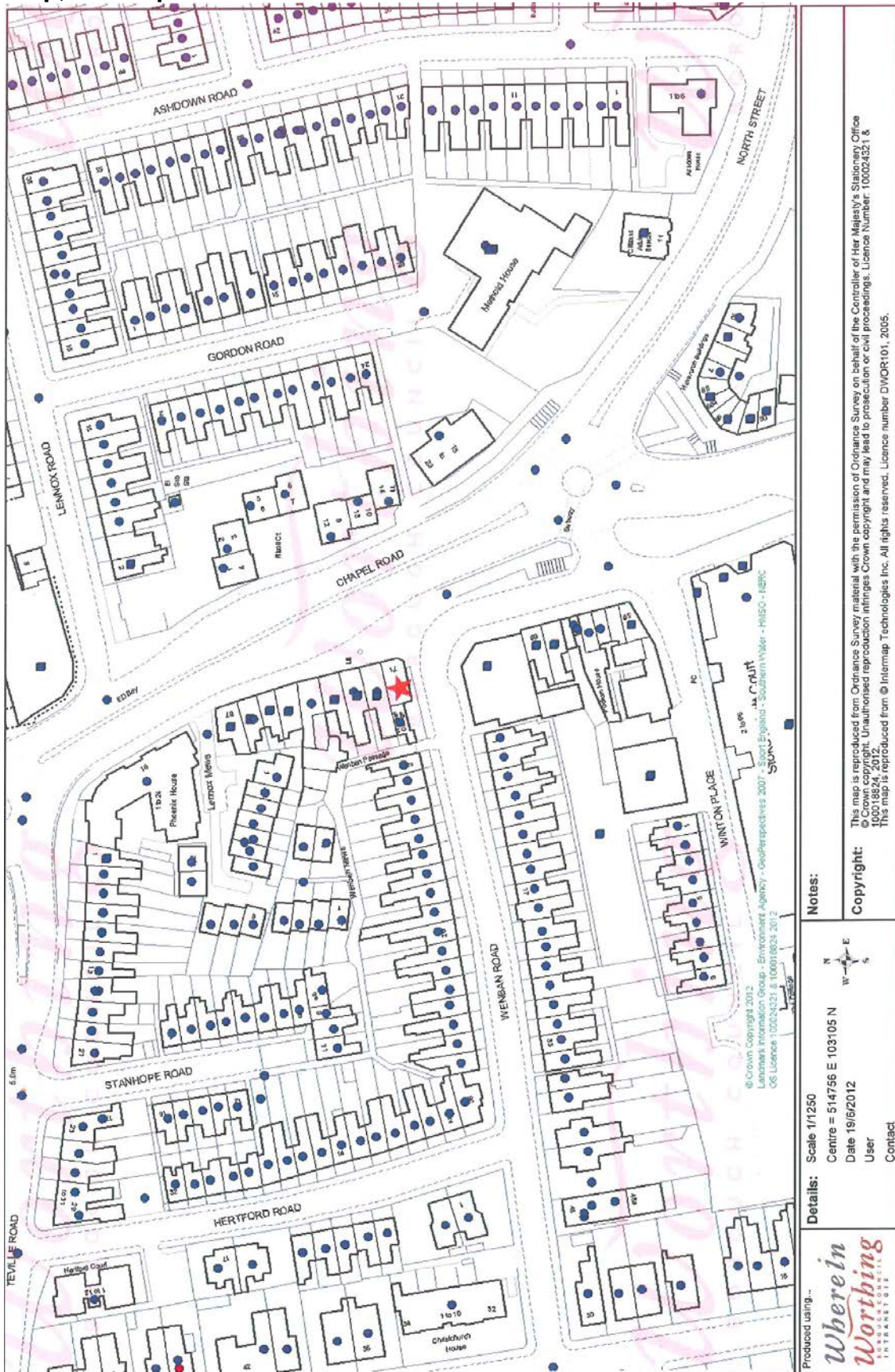
- Appendix A - Plan of the area.
- Appendix B - Plan of the store.
- Appendix C - Review Application.
- Appendix D - Store's current Premises Licence.
- Appendix E - Police Representation
- Appendix F - Mediation correspondents

The Licensing Unit, 9 Commerce Way, Lancing

Ref: SJ/Lic.U/LA03/Review – The Shop.

Date: 20 March 2015.

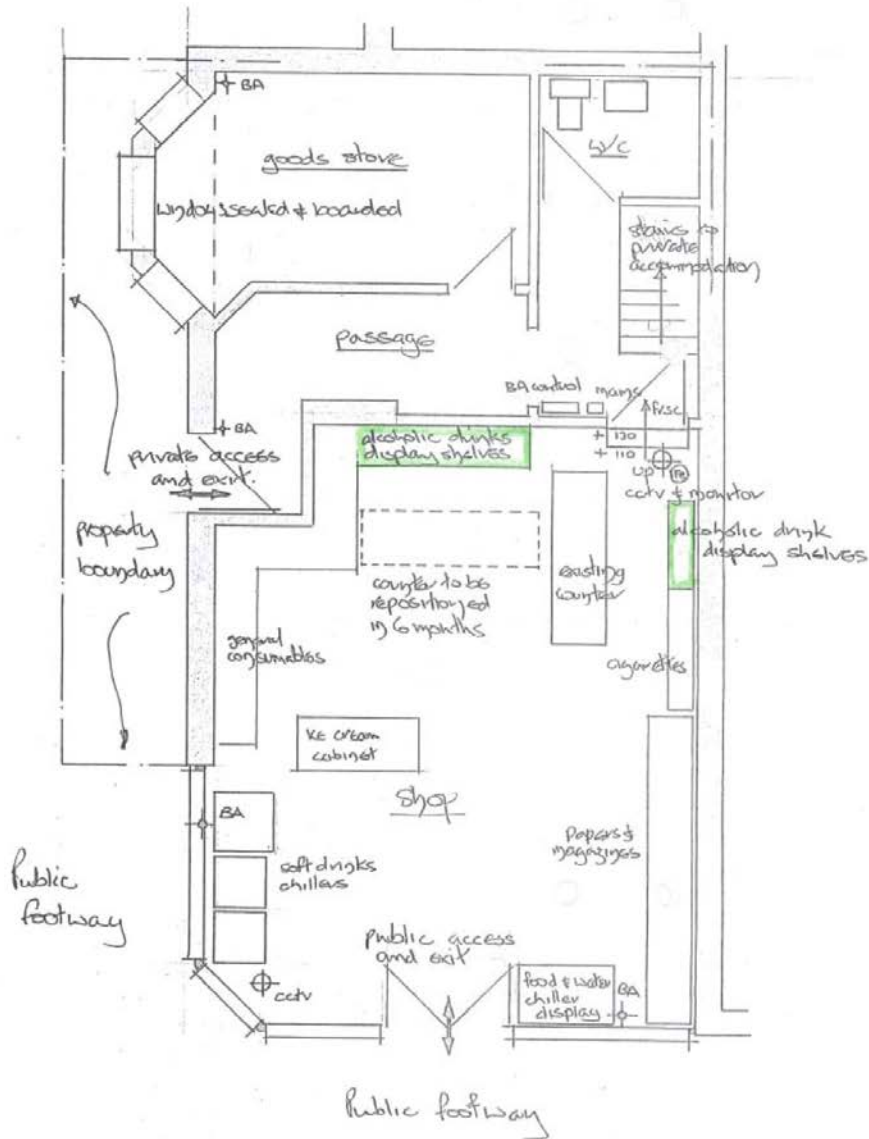
Plan of Area
The Shop, 71 Chapel Road



<p>Produced using...</p> 	<p>Details: Scale 1/1250 Centre = 514756 E 103105 N Date 19/6/2012 User Contact</p>	<p>Notes:</p> <p>© Crown Copyright 2012 Lemnos Information Group - Environment Agency - GeoPerspectives 2007 - Stone England - Southern Water - HNSO - HERC OS Licence 100024321 & 100018824 2012</p>	<p>Copyright:</p> <p>This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence Number: 100024321 & 100018824, 2012. This map is reproduced from © Intermap Technologies Inc. All rights reserved. Licence number DWOR101, 2005.</p>
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Plan of Premises

The Shop
 71 Chapel Road, Worthing
 Premises Licence LN/100001618
 Drawing No. A06/04/01



Legend

- + BA - Burglar alarm sensor
- BA control - Burglar alarm control panel
- ⊕ cctv - Close Circuit tv cameras
- monitor - CCTV monitor
- frsc - Fire Resistant self closing door
- fe - Fire Extinguisher 6kg powder type
- +130 - rise in level in millimetres above Floor 0.000 datum
- - Areas for display/storage of alcoholic drinks

Review Application

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

Worthing Council
Licensing Unit
RECEIVED
- 9 FEB 2015

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I PHILIP LIPSCOMB, TRADING STANDARDS OPERATIONS MANAGER, WEST SUSSEX COUNTY COUNCIL TRADING STANDARDS SERVICE

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description The Shop (previously known as News Corner), 71 Chapel Road	
Post town Worthing	Post code (if known) BN11 1HU

Name of premises licence holder or club holding club premises certificate (if known) Mr Ashish Soni & Ms Yogita Patel

Number of premises licence or club premises certificate (if known) [REDACTED]

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Richard Sargeant, Trading Standards Team Manager West Sussex County Council County Hall North Chart Way Horsham West Sussex RH12 1XH FOR & ON BEHALF OF THE APPLICANT.
Telephone number (if any) 03302 227665
E-mail address (optional) richard.sargeant@westsussex.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

West Sussex County Council Trading Standards Service contends that the above licensing objectives, the prevention of crime and disorder, public safety and the protection of children from harm, have seriously been undermined. Full particulars in support of this application are to be found in the next section, but in summary:

A volunteer, under the age of eighteen, who was under the supervision and instruction of this Service, covertly visited The Shop and was sold a packet of cigarettes contrary to section 7 of the Childrens and Young Persons Act 1933. After the sale took place, Officers of This Service then introduced themselves to staff at The Shop.

Please provide as much information as possible to support the application
(please read guidance note 2)

On 8th January 2015, Officers from West Sussex County Council Trading Standards Service visited The Shop, 71 Chapel Road, Worthing, BN11 1HU accompanied by a volunteer, who was aged 16 years and 8 months, as part of an Underage Sales Operation.

During the visit, the volunteer asked the member of staff behind the till, who I now know to be Mr Ashish Soni, for 1 packet of Mayfair cigarettes. Mr Soni did not ask the volunteer to confirm their age and failed to ask for proof of identification.

The sale of tobacco to a person under the age of eighteen is a criminal offence under section 7 of the Childrens and Young Persons Act 1933.

At the time of our visit, The Shop operated a Challenge 21 policy and since the visit, a Challenge 25 policy has been introduced. A Challenge 25 policy means that any person attempting to buy an age restricted product who appears to be under the age of 25, will be asked for photographic ID to prove their age.

During the visit, Officers confirmed that the tills used in The Shop does not have prompt facilities when age restricted products were scanned to remind staff to request proof of identification/age prior to selling the product. Officers also examined the refusals log maintained by staff at The Shop, which seemed to be updated accordingly.

Officers confirmed that both Directors are the only staff members of The Shop and that that training Mr Soni received in relation to the sale of age restricted products was as part of him receiving a personal alcohol licence. No repeat training on age restricted sale is carried out by the business and their own mystery shopping is not undertaken to ensure that staff comply with the law relating to underage sales.

An Officer within the Service, Miss Ashley Crofts, has formally interviewed Mr Ashish Soni who is one of the directors of Ansh Soni Ltd and there is an ongoing investigation in relation to the offence committed.

On 15th January 2015, Sussex Police visited the same premises as part of an underage sales operation and an underage volunteer under their instruction and supervision was sold alcohol, contrary to Section 146 of the Licensing Act 2003.

It is therefore contended that the sale of cigarettes to a person under the age of eighteen breaches the licensing objectives 'the prevention of crime and disorder', 'public safety' and 'the protection of children from harm' and that the licensee was failed in their responsibilities in promoting the above-mentioned licensing objectives.

In view of the above, West Sussex County Council Trading Standards deem it both appropriate and necessary to invite the licensing authority to review the Premise Licence of The Shop and determine if it is appropriate to issue an informal warning to the Premise Licence Holder or to suspend and/or impose specific conditions to the current licence. Specific conditions could include:

- All staff members engaged, or to be engaged, in selling tobacco or other age restricted products on the premises shall receive full training pertinent to the Licensing Act and other appropriate legislation, specifically in regard to age restricted sales

- Induction training must be completed, and fully documented, prior to the sale of

tobacco by the staff member and refresher training thereafter at intervals of no less than six months. Written records of all training, including refresher training, must be kept and made available to Police, PSCO, Licensing and Trading Standards Officers.

- A suitable till prompt is introduced to remind staff to check and confirm that the customer is over 18 before selling tobacco, alcohol or any other age restricted product

- The serving counter is kept clear and left free of all products so allowing staff a clear view of the shop and customers.

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

1	1	1	1	1	1	1	1	1
---	---	---	---	---	---	---	---	---

If you have made representations before relating to this premises please state what they were and when you made them

n/a

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

S. 2. 15

Capacity Trading Standards Team Manager

Premises Licence



Licensing Act 2003 – Sections 16 and 18
Premises Licence – Part B

Housing, Health and Community Safety
9 Commerce Way
Lancing
BN15 8TA

Premises Licence Number - LN/000001618

Premises Details

Postal address of premises or, if none, ordnance survey map reference or description		
The Shop 71 Chapel Road Worthing West Sussex BN11 1HU		
Telephone number 01903 202318		
Licensable activities authorised by the licence		
See attached Schedule		
The times the licence authorises the carrying out of the licensable activities		
See attached Schedule		
Opening hours of the premises		
Location : Newsagents / Convenience Store		
Day	Start	Finish
Sunday	06:00	23:00
Monday	06:00	23:00
Tuesday	06:00	23:00
Wednesday	06:00	23:00
Thursday	06:00	23:00
Friday	06:00	23:00
Saturday	06:00	23:00
Non Standard Timings & Seasonal Variations		
Where the licence authorises supplies of alcohol whether these are on and/or off supplies		
OFF		

Premises Licence Holder Details


Name
Mr Ashish Soni & Ms Yogita Patel

Registered Address


Registered number of holder, for example company number, charity number (where applicable)
N/A

Designated Premises Supervisor Details (Where the premises licence authorises for the supply of alcohol)

Name
Mr Ashish Soni

Personal licence number and issuing authority of personal licence held by Designated Premises Supervisor where the premises licence authorises the supply of alcohol	
Personal Licence Number :	
Licensing Authority :	Crawley Borough Council

State whether access to the premises by children is restricted or prohibited
N/A

Schedule 1 – Licensable Activities authorised by this Licence

Times the licence authorises the carrying out of the licensable activities

Location:	Newsagents / Convenience Store	
Activities:	Alcohol OFF Sales/Supply (M)	
Day	Start	Finish
Sunday	08:00	23:00
Monday	08:00	23:00
Tuesday	08:00	23:00
Wednesday	08:00	23:00
Thursday	08:00	23:00
Friday	08:00	23:00
Saturday	08:00	23:00
Non Standard Timings & Seasonal Variations		

Signed on behalf of the issuing licensing authority

Senior Licensing Officer

Date : 5 February 2015

The Shop

Annexe 1 : Mandatory Conditions

A. Mandatory conditions: Licence authorises supply of alcohol

1. No supply of alcohol may be made under the premises licence:-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

B. Mandatory conditions: Door supervision

When employed each such individual must be licensed by the Security Industry Authority.

C. Mandatory conditions: Age Verification

An age verification policy for the premises must be produced, implemented and details made available to authorised officers upon request. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:

- a holographic mark, or
- an ultraviolet feature.

D. Mandatory conditions : Permitted price

A relevant person shall ensure that no alcohol is sold or supplied for a price which is less than the permitted price.

For the purposes of the condition “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

Where —

- I. P is the permitted price
- II. D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- III. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

“relevant person” means, in relation to premises in respect of which there is in force a premises licence —

- I. the holder of the premises licence*
- II. the designated premises supervisor (if any) in respect of such a licence, or*
- III. the personal licence holder who makes or authorises a supply of alcohol under such a licence;*

E. Permitted Hours

Alcohol shall not be sold or supplied except during the premise's permitted hours.

F. Off Sales

Alcohol shall not be sold in an open container or be consumed on the licensed premises.

Annexe 2 : Conditions Consistent with the Operating Schedule

1. CCTV to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System. CCTV Images shall be retained for at least 28 days and except for mechanical breakdown beyond the control of the proprietor, shall be made available upon request to the police. Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
2. It will be the responsibility of the DPS, or duty manager, to ensure that any request from the police for a recording to be made for evidential purposes, is carried out as soon as possible in compliance with data protection legislation.
3. All Spirits shall be stored and displayed behind the counter/servery
4. The premises shall at all times maintain and operate a sales refusals book and an incident log which shall be reviewed by the Designated Premises Supervisor at intervals of no less than four (4) weeks and feedback given to staff as relevant.
5. Both a refusal register and an incident register will be kept on the premises to record all refusals and incidents of crime or disorder. These records will be made available to the Authorised members of the Local Licensing Authority and/or the Police upon request.
6. The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The only form of ID that will be accepted are passports, driving licences with a photograph or Portman Group, Citizen card or validate proof of age cards bearing the "PASS" mark hologram. Suitable and sufficient signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises.
7. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically in regard age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs.
8. Induction training must be completed, and fully documented, prior to the sale of alcohol by the staff member and refresher training thereafter at intervals of no less than eight (8) weeks.
9. All restricted sales training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to the Sussex Police Local Authority Licensing officers and the local Trading Standards service upon request.
10. At all times the premises is open and undertaking licensable activity, members of staff must be able to communicate sufficiently to enable them to promote the 4 licensing objectives, specifically, the ability to make effective age and I.D. challenges and ensure alcohol is retailed responsibly.

11. West Sussex Fire & Rescue Service report no. 8/A/0387 dated 22nd September 2006 to be fully complied with.
12. Unaccompanied children (under 16) to be strictly monitored whilst on the premises.
13. Proper fire precautions & equipment and burglar alarms to be maintained.
14. Drinks containers not to be opened on the premises.
15. The sale of alcohol is to be secondary to the principal business of the shop.
16. There are to be no drinks promotions that could be interpreted to be aimed at young people.
17. Customers will be actively encouraged not to create litter.
18. All staff to work under the supervision of a personal licence holder.

Annexe 3 : Conditions attached after a hearing by the Licensing Authority

None

Annexe 4 : Plans

See attached plan no. A06/04/01

Police Representation



WEST SUSSEX DIVISION

YOUR REF.

25 February 2015

PLEASE ASK FOR Ps Balmer

DIRECT DIAL 01273 404030

The Shop
71 Chapel Road
Worthing
West Sussex
BN11 1HU
[Licence Number LN/000001618]

Dear Sir,

With regards to West Sussex County Council Trading Standards Service's application for the review of The Shop (previously News Corner) premises licence, Sussex Police wish to make representation in support of the review application.

Sussex Police wish to raise representations on the grounds that the Licensing Objective of the **protection of children from harm** is not being promoted.

Sussex Police contend that the management at the premises have failed to promote this licensing objective by the disregard of conditions placed upon the premises licence. They have also committed an offence under Section 146 of the Licensing Act 2003 through the sale of alcohol to a person aged under 18 years of age.

The premises licence LN/000001618, pertaining to The Shop was issued by Worthing Borough Council. The following condition is amongst others placed upon that licence at Annex 2:

1. The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The only form of ID that will be accepted are passports, driving licences with a photograph or Portman Group, Citizen card or validate proof of age cards bearing the "PASS" mark hologram. Suitable and sufficient signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises.

Thursday 15th January 2015

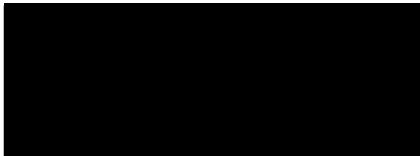
On Thursday 15th November 2015, following information received, a test purchase operation was conducted at the premises. Two volunteer children aged 16 years entered the premises and plain clothed officers witnessed the children select a bottle of WKD Blue (4% ABV). The alcohol was purchased without the children being

challenged regarding their age, or being asked to produce any identification. The sale was made by the Designated Premises Supervisor who has been reported for the offence. The matter is currently sub-judice.

Sussex Police believe that Mr Ashish Soni the Designated Premises Supervisor has knowingly breached the conditions placed upon the licence and has thereby failed to promote the licensing objectives.

Sussex Police contend that Mr Soni who is both one of the Premises Licence Holders and the DPS, has failed in his duty to promote the licensing objectives and assume adequate responsibility for the day-to-day running of the premises. While it is appreciated that West Sussex County Council Trading Standards Service recommend additional conditions specific to the sale of tobacco, it is clear that there has been a failure to adhere to the current conditions placed upon the licence in relation to the prevention of the sale of alcohol to children. In view of the fact that the premises has now failed two test purchase operations, albeit in the sale of differing age restricted products, Sussex Police recommend serious consideration be given to suspending the licence for a four week period.

Yours sincerely,



Jean Irving
Force Licensing & Public Safety Manager

Simon Jones

From: Helen.Manley@sussex.pnn.police.uk
Sent: 18 March 2015 15:23
To: Simon Jones
Cc: Licensing Unit
Subject: Re. The Shop- Supporting Review

Dear Mr Jones

Re. The Shop- Supporting Review

A typing error has been brought to our attention in the supporting representation submitted on the 10th March 2015 to confirm, the date of the incident mentioned should read the 15th January 2015.

Kind Regards

Helen

Helen Manley
Assistant Licensing Officer
Neighbourhood Licensing Team, W. Sussex

Tel: 101 Ext. 581179
Mobile: 07771807982
Direct Dial: 01273 404030

Mediation Correspondents

Simon Jones

From: ashyog soni <ashyog@hotmail.com>
Sent: 13 March 2015 15:16
To: Simon Jones; ws_licensing_wor@sussex.pnn.police.uk
Subject: FW: Our ref: E192907 Re: Mediation Meeting

Afternoon,

I have attached the details of the conditions we have discussed in the meeting with trading standards on 11th march.

Thank you very much

Ashish Soni

From: ashley.crofts@westsussex.gov.uk
To: [REDACTED]
Subject: Our ref: E192907 Re: Mediation Meeting
Date: Fri, 13 Mar 2015 15:01:05 +0000

Our ref: E192907

Dear Mr Soni,

Further to our meeting on 11th March 2015, below is a summary of what we discussed. I would appreciate if you could confirm that this following is correct by replying to this email:

Condition 1 – all staff engaged in selling tobacco or any other age restricted products shall receive full training in relation to the Licensing Act and other appropriate legislation.

Training has already been implemented and records of this are retained in the shop, as 2 new positions have become available (although only 1 person has been recruited on a part time basis currently).

Condition 2 – induction training must be completed, and fully documented, prior to the sale of tobacco by staff and refresher training must be completed in a period of no less than six months. Documentation should be retained.

Training has already been implemented and refresher training shall be carried out 3-4 times a year.

Condition 3 – a suitable till prompt is introduced to remind staff to check and confirm that the customer is over 18 before selling tobacco, alcohol or any other age restricted product.

Whilst you would like to commit to this condition by either updating or replacing the till to include a till prompt, the business is not in a financial position to commit to this currently.

Condition 4 – the serving counter is kept clear and free of all products to allow staff a clear view of shop and customers.

Whilst there are lottery and scratch card terminals at the till area, you do not believe that this obstructs the view from the point of view of the customer or staff. Items such as special offers would not be placed in the till area which would obstruct either the staff or customer's view. The till is also positioned so that staff can keep a close eye on the alcohol available for sale in order to try and prevent theft.

Kind regards,



Ashley Crofts
Trading Standards Officer

[Ashley Crofts](#) | Trading Standards Officer, West Sussex Trading Standards Service
Location: Floor 1, County Hall North, Chart Way, Horsham, West Sussex, RH12 1XH
Internal: Extn 27392 | External: 03302 227392 | E-mail:
ashley.crofts@westsussex.gov.uk

For more information on the Trading Standards Recommended Business Scheme, or to find a recommended business go to www.buywithconfidence.gov.uk



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Sussex Police
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www.sussex.police.uk

Neighbourhood Licensing Team

26th March 2015

Simon Jones
Senior licensing officer
Adur District & Worthing Borough Councils
Licensing unit
9 Commerce Way Lancing BN15 8TA

Dear Mr Jones,

The Shop 71 Chapel Road Worthing BN11 1HU

As a result of the Sussex Police representation in support the Review raised by West Sussex Trading Standards; Mr Soni the Premises Licence Holder and Designated Premises Supervisor of the above premises, today met with Jean Irving Sussex Police Force Licensing & Public Safety Manager, PS Balmer and Pauline Giddings of the Neighbourhood Licensing Team.

Mr Soni had requested the meeting in order to progress mediation prior to the Review Hearing before the licensing sub-committee. Mr Soni explained that during the period in question he had been working long hours and acknowledged that he had made a serious error of judgment and accepted full responsibility. He now has an additional member of staff to reduce the pressure and has given an undertaking to ensure training and refresher training shall be ongoing to prevent a further incident occurring. He was aware of the severity of the situation and of the risk to his premises licence. We understand from Mr Soni that he will be appearing at Magistrate's Court on 9th April 2015 in relation to the offence of selling alcohol to children.

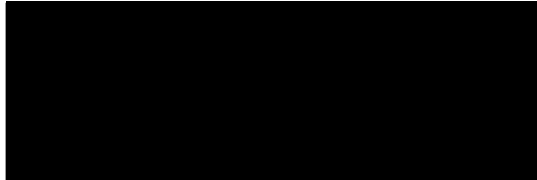
Having taken into consideration the responses from Mr Soni and his clear remorse, Sussex Police agreed that a suitable deterrent to prevent a further sale of an age restricted product to a child would be a seven (7) day suspension of the premises licence. This suspension to commence at the close of business on receipt of the determination of the Review Hearing. Sussex Police commend this to the Licensing Authority sub-Committee as a suitable resolution to this matter..

Sussex Police
Centenary House, Durrington Lane, Worthing, West
Sussex, BN13 2PQ

Telephone: 01273 404030

Mr Soni is copied in to this letter, and we have asked that he confirm in writing (via email) to you that he accepts the terms of this mediated agreement.

Yours sincerely,



Jean Irving

Sussex Police Force Licensing & Public Safety Manager

Simon Jones

From: [Redacted]
Sent: 28 March 2015 07:31
To: Simon Jones
Subject: RE: Automatic reply: LA 2003 - Review Application Mediation Advice

Morning Simon,

I went to meet Sussex Police Licensing on 26th march and have agreed to 1 week suspension of my premises licence for selling alcohol instead of 4 weeks as sussex police asked for. I am really thankful of Sussex Police Licensing Head Jean for this support and understanding of my situation.

Thank you very much.

Ashish Soni
The Shop