

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

Gordon Room, Town Hall, Chapel Road, Worthing

Thursday 9 April 2015

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	Robert Smytherman

*Absent

LCCB/14-14/24 Declarations of Interest /

There were no declarations of pecuniary interest

LCCB/14-15/25 Public Question Time

There were no questions or statement made by the public

LCCB/14-15/26

Before the Committee was a report by the Director for Communities, a copy of which had been sent to all members and a copy of which is attached to the signed copy of these minutes as item 3. The report before Members asked the Committee to consider and determine the application from West Sussex County Council (WSSC) Trading Standards Service for a 'Review' of Premises Licence of 'The Shop' 71 Chapel Road, which authorised the sale of alcohol, for consumption off the premises.

The report before Members detailed that the applicant had called for a review of the premises because the licence holder was undermining the licensing objectives Prevention of Crime & Disorder, Public Safety and Protection of Children from Harm. The application gave details regarding two failed test purchase operations whereby on the 8 January 2015 during a WSSC Trading Standards operation, tobacco was sold to a volunteer aged 16yrs & 8months old and on 15 January 2015 during a Sussex Police operation where alcohol was sold to two volunteers aged 16yrs old. The applicant asked the Committee to consider placing a number of conditions on the licence as well as imposing a suspension. Sussex Police as a responsible authority had supported the application for review. The report informed members that mediation had taken place between the parties which had been partially successful.

The Senior Licensing Officer introduced the report to the Committee and confirmed with the applicant that it was an accurate outline of the application. Members of the Committee sought some clarification on matters within in the annexes to the report.

WSSC Trading Standards made their representation and invited the Committee to review the licence and determine the outcome as per the mediation. The applicant noted that the licence

holder had not agreed to a proposed condition which stipulated 'that a suitable till prompt be 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 applicant told the Committee that the current till at the premises could not be updated and the licence holder would be required to purchase a new one for £1200 or attempt to buy a cheaper machine second hand.

A Member asked if similar sized small businesses could be expected to have the till being asked for as part of the review. The applicant stated that the till would assist the applicant in promoting the Licensing objectives and would help with system controls, members were told by the applicant that it was a reasonable proposed condition.

The Police representative was asked to make her representation. Members were told that the Police took very seriously the selling of age restricted products to underage children and explained that in ordinary circumstances they would have made an independent application for review, however in this instance the police supported the WCSS Trading Standards application to avoid duplication of process. Members were told that the Police representative had spoken with the applicant and were satisfied that he had shown genuine remorse. Members were told that the Police had mediated a seven day suspension with the applicant but had made it clear to the applicant that it was within the Committee's remit to impose a greater sanction.

The Police representative explained the circumstances around the test purchase for alcohol members were told that there were plans for a series of test purchases in the Worthing area and the previously failed test for tobacco had led the police to include the premises to be tested along with other premises.

The respondent (and licence holder) made his representation to the Committee, he apologised and expressed his regret at selling age restricted products to those under age. He explained that an increase in competition locally had led to a necessity to increase the hours that he opened the shop. At the time of the test inspections he had been distracted by the financial plight of his business and the actions of the local competition whilst being tired from working from 6:00am to 11pm. As a result of the failed test purchase he had employed a member of staff to work for a few hours in the morning which allowed him to get a longer sleep he was also looking into employing a second member of staff for later in the day. He had also updated his training and was more rigorous in making sure that he and other staff were regularly given the necessary training.

A Member asked how the premises operated its challenge 25 scheme. The licence holder explained that following the test purchase staff at the shop assessed the age of customers coming through the door. If the customer looked under 25 and looked to buy alcohol they would be told they needed ID before picking any alcohol up or bringing it to the desk.

A Member asked why the respondent had not been more vigilant following the failed test purchase for tobacco. The respondent told the Committee that he was very tired at the time and focusing on the activities of other businesses when he should have been focusing on his own business.

Members asked the respondent about implementing the till system. The respondent stated that he had not agreed to mediate the proposed condition because he could not afford the till system but would procure the till should the Committee make a decision to impose it upon him. The Committee questioned the respondent about his ability to purchase a new till and the options available for him to be able to do this.

The meeting was told that in reaching its decision, the Licensing and Control Committee 'B' had given due regard to the Home Office guidance, the Council's own Licensing Policy and relevant

licensing legislation. The Committee also gave 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 did so with a view to promoting the Licensing Objectives, the relevant objectives here were the Prevention of Crime and Disorder and Protection of Children from Harm.

Resolved:

- i) that additional conditions should be added to the premises licence, namely:
 - Conditions 1, 2 and 3 on Appendix F which is the email from Trading Standards to Mr Soni dated 13th March 2015.
 - A suitable till prompt is to be implemented within a period of six months.
- ii) that the premises licence will be suspended for a period of seven days.

Reasons for decision:

The Committee considers the primary reason for the underage sales was lack of training in age related products. However the Committee is concerned that conditions were already on the premises licence relating to this type of training and importantly condition 8 states that refresher training was due to take place at intervals of no less than 8 weeks. It does not appear that this was complied with.

As such, the Committee is of the opinion that it is appropriate to suspend the premises licence for a period of seven days as a deterrent from allowing the problems that gave rise to this review to occur again.

The Committee considers that the detrimental financial impact is appropriate and proportionate to the promotion of the licensing objectives.

Advice to parties:

The parties were told that they would be notified in writing of the decision within five working days of the hearing. The decision would take effect 21 days thereafter which is the time in which an appeal could be submitted.

The licence holder and those who had made representations in connection with this application were reminded that they could appeal against the decision within 21 days by giving notice to the Magistrates Court.

The applicant was reminded that it was a criminal offence under the Licensing Act 2003 to carry on licensable activities from any premises in breach of a premises licence.

The meeting was declared closed at by the Chairman at 8.00pm, it having commenced at 6.30pm.

Chairman