

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

Council Chamber, Town Hall, Chapel Road, Worthing

Wednesday 10 August 2016

Councillor Paul High (Chairman)
Diane Guest**

Paul Baker	Susan Jelliss
Keith Bickers	Jane Sim
*Joan Bradley**	Bob Smytherman
**Callum Buxton	Steve Wills
Edward Crouch	Paul Westover
Lionel Harman	Tom Wye
Joshua High	

*Absent on the 20 July 2016

**Absent on the 10 August 2016 (the meeting was adjourned and reconvened on this date)

The meeting was opened and adjourned at 6.30pm for consideration of newly submitted evidence.

The meeting was reconvened at 6:45pm

LCCB/15-16/01 Declarations of Interest /

There were no declarations of pecuniary interest

LCCB/15-16/02 Confirmation of Minutes

Resolved: that the minutes of the Licensing and Control Sub Committee B meeting held on the 20 April 2016, copies of which have been previously circulated.

LCCB/15-16/03 Public Question Time

There were no questions or statement made by the public

LCCB/15-16/04 Items Raised Under Urgency Provisions

There were no urgent items

**LCCB/15-16/05 Licensing Act 2003 - Application for a review of a premises licence
under section 51 - Montague Stores**

Before the Committee was a report by the Director for Communities, a copy of which was circulated to all Members, a copy of which is attached to the signed copy of these minutes as item 5. An application for a Review of premises licence for the convenience store known as Montague Stores had been received from Chief Inspector Howard Hodges for and on behalf of

the Chief Constable of Sussex Police. The Police being a Responsible Authority as defined in the Act. The application had been made in response to a failed test purchase and one of the licence holders being convicted for the criminal offence of the handling stolen goods.

Members were advised that an application has been received to transfer the licence and that it would be sensible for the transfer application to be heard prior to the review hearing and that both parties supported an adjournment to a later date. The Committee made a unanimous decision to adjourn the review hearing and requested that both the review and transfer hearing be held on the same date.

The meeting adjourned at 7.00pm

The meeting reconvened at 6.30pm on Wednesday 10 August 2016

LCCB/15-16/01 Declarations of Interest

Councillor Westover made a declaration as ward councillor for Central Ward.

LCCB/15-16/01 Licensing Act 2003 - Application for a review of a premises licence under section 51 - Montague Stores

The Licensing Officer introduced the application to the Committee. Members were told that the applicant and respondent had reached a mediated agreement, details of which were contained within a position statement which had been circulated to all members, a copy of which is attached to a signed copy of these minutes. Members were told that some representations remained outstanding and it was up to the Committee to decide how much weight to give those representations. Members were told that the decision was in the hands to the Committee, however if a decision was made that was different from the position statement members would need to provide clear and precise reasons. A Member asked what would happen to the transfer licence application and was told that should the mediated agreement be endorsed then the Police would withdraw its objection to the transfer application.

The applicant's solicitor raised a point of order he noted that Councillor Guest was present in the public gallery and argued that the Councillor should not be present in the room if there was an interest that prevented them from taking part in the Committee. The committee's solicitor stated that the Councillor had not made a declaration of interest in relation to the application. Cllr guest stated from the gallery that she did not have a declaration of interest to make.

A representative from Sussex Police made the applicant's representation to the Committee. Members were told the following

- The decision to mediate had not been taken lightly;
- The agreement between the parties was a positive and appropriate way forward
- As the licence holder had received a relatively small fine for the offence of handling stolen goods it was felt that a revocation was not commensurate with with the decision of the court;
- The Police felt that it would be proportionate and appropriate to endorse the position statement and respectfully asked that the Committee agreed to the mediated agreement.
- The mediated agreement contained a four week suspension which would produce a significant deterrent effect.

A Member asked about the process leading up to the hearing and at why the police had not attempted to mediate prior to putting in a request for revocation. Sussex Police informed members that it would not be appropriate to seek mediation because of the seriousness of the case and because of the strong indication of guilt.

A Member asked why the police had moved from asking for a complete revocation to a four week suspension of the licence. The representative from Sussex Police told the committee that although they had objected to the transfer of the licence, any decision to reject the application could be appealed at a magistrates court which could lead to a protracted process with no guarantee of success, particularly as the new licensee had not been charged in relation to the handling stolen goods offence and had co-operated with police. The police considered that the mediated four week suspension ensured a deterrent to other premises carrying out the same practices without the process being held up in court proceedings.

The Solicitor for the respondent made a representation to the Committee which is summarised as follows:

- The Licensing Act was clear in that the review process should be discussion led.
- With regards to the failed test purchase, members were told that the premises had worked with the police following the failure and had subsequently passed a second test purchase
- The previous licence holder had received a small fine for his conviction for handling stolen goods whereas the starting point in the Magistrates' Court guidelines was a community order
- The current licence holder had no culpability and was of a good character to hold a licence and would promote the licensing objectives
- A four week suspension should be the maximum implemented as a means of deterrent and there was precedent and logic to support this
- A four week suspension was serious and would have an impact upon a small business
- Any decision made should be proportionate and appropriate and based upon the evidence presented to the Committee. The evidence presented was used by the respondent and the police to come to the mediated position statement

A Member asked if the previous licence holder was still working in the shop. The solicitor for the applicant stated that he was, however the current licence holder was of good character. The current licence holder was capable of running the store and the previous licence holder was fully aware of the consequences of his actions and had received his punishment.

A Member asked if the applicant would appeal the decision if the mediated agreement was endorsed by the Committee. The solicitor for the applicant told the committee that the applicant would not be appealing the decision that they had signed to.

In summing up the police representative stated that the police were confident that the position statement was the way forward and commended it to the Committee

In summing up the solicitor to the applicant reiterated that a decision of the Committee should be evidence based and that the position statement was an appropriate and proportionate response to the review.

The meeting adjourned at 7:17pm and reconvened at 7:50pm

The meeting was told that In reaching its decision, the Licensing and Control Committee gave 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 the protection of children from harm.

The Licensing Committee reiterated that selling alcohol to underage persons and criminal activity occurring on the premises is very serious.

Resolved: The decision of the committee is to endorse the mediated agreement between the Police and Mrs Vishnukanthan which is detailed in the Position Statement dated 8 August 2016

Reasons for decision:

The Licensing Committee is of the opinion that the cause of concern is the actions of Mr Vishnukanthan who is no longer the premises licence holder.

The Licensing Committee is satisfied the period of suspension for four weeks will act as a deterrent. Also, the additional conditions that have been agreed will promote the licensing objectives

Additional comments:

The Licensing Committee would recommend that Montague Stores join the 'Enough is Enough' campaign.

The campaign is a voluntary scheme for local independent retailers which promotes responsible retailing and encourages the responsible consumption of alcohol. The Committee is of the opinion it would be of benefit to the premises. The incident that led to the application for review was an offence of handling stolen goods of various items, including alcohol. Further there was an incident of selling to an underage person in September 2015.

The Committee sincerely wishes that these premises do not return before us in the foreseeable future.

Advice to parties

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

Interested parties are reminded that they may apply for a review of this licence 'after a reasonable interval' pursuant to section 51 of the Licensing Act

Any licence granted under the Licensing Act 2003 does not override any planning restrictions on the premises nor any restrictions that may be attached to the lease of these premises.

The applicant is reminded that it is 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