

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

**Gordon Room, Town Hall, Chapel Road, Worthing**

**Tuesday 12 December 2017**

Councillor Paul High (Chairman)

\*Sean McDonald

Noel Atkins

Paul Baker

Keith Bickers

Callum Buxton

Rebecca Cooper

Lionel Harman

Joshua High

Susan Jelliss

Jane Sim

\*Bob Smytherman

Steve Wills

Paul Westover

Tom Wye

\*Absent

**LCCB/17-18/27    Declarations of Interest**

Councillors Paul High and Noel Atkins declared a non-pecuniary interest as members of West Sussex County Council

**LCCB/17-18/28    Confirmation of Minutes**

**Resolved:** that the minutes of the meetings of the 2 November 2017 be approved as the correct record and be signed by the Chairman.

**LCCB/17-18/29    Public Question Time**

There were no questions from the public

**LCCB/17-18/30    Items Raised Under Urgency Provisions**

There were no urgent items

**LCCB/17-18/31    Licensing Act 2003 - Application for the Review of the Premises  
Licence under Section 51 - The One Club**

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 4. An application for a review of premises licence had been received from West Sussex Trading Standards for Worthing News, 25 Rowlands Road, Worthing.

The applicant surmised that the respondent had undermined the licensing objectives: Prevention of crime & disorder, Public Safety and Protection of Children from Harm. The Committee was asked to consider revocation of a licence following the discovery of illicit

tobacco at the store in July 2017 and test purchase operation in August 2017 at which e-liquid was sold to an underage volunteer. Sussex Police and West Sussex County Council Public Health had made representations supporting the application for review. Sussex Police contended that the premises was in breach of a number of conditions of its licence and furthermore there had been some confusion about the role and designation of the store's DPS.

The Licensing Officer introduced the report to the Committee and confirmed with the applicant that he had provided an accurate outline of the application.

The applicant was invited to make their representation which is summarised below:

- The applicant set out the background to the events leading up to request for review;
- Worthing was a 'hot spot' area in West Sussex in relation to the illicit sale of Tobacco and West Sussex Trading Standards were keen to reduce the supply;
- The supply of illicit tobacco was a serious offence which was demonstrated by a Worthing seller receiving 9 months imprisonment;
- There had been no contact from the applicant seeking to mediate.

A Member asked what follow up contact had been made following the discovery of illicit tobacco in July 2017 and was told that there was contact straight away which included advice. There had been further contact concerning a criminal investigation.

A Member asked if there was evidence that the illicit tobacco had been sold and consumed by the public. The applicant stated that there was no evidence, however, a member of the public had given intelligence that illicit tobacco was for sale from the premises. Members were reminded that the guidance to the act stated that there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously including the sale or storage of smuggled tobacco and alcohol.

A Member asked if there had been criminal proceedings relating to the case and was told that the case was currently with the court.

The respondent had no questions for the applicant.

Sussex Police were invited to make their representation which is summarised as follows:

- A Licensing visit to the premises had identified a number of breaches of the premises licence including no documentation of staff training, no refusals book, spirits were on retail display on the shop floor and not behind the counter, there were a number of issues with the shop's CCTV;
- When conversing with the respondent during a licensing visit it was the police's contention that he was not familiar with the conditions of his licence nor with the Licensing Act;
- When the respondent was told that he was not the DPS (it still remained as the previous owner of the premises) he at first did not appear to know what a DPS was and had failed to resolve the DPS issue over an extended period of time despite being subject to a review of his licence. This led the Police to believe that the respondent did not have the ability or willingness to be a premises licence holder or DPS.
- When contacted, the named DPS and previous store owner told the Police that she had no dealings with the premises since February 2017 which in effect had meant that the store had been operating without a DPS for all of that time. When the former owner was told that she was still listed she removed herself as DPS.

A Member asked that if it was the responsibility of the previous DPS to remove themselves or was the transfer of DPS up to the new applicant to manage. The Licensing Officer told the Committee that it was normal for the new Premises Licence Holder to arrange for the transfer of the DPS but there were a few cases where a previous DPS had removed themselves from the register.

A Member asked if there had been contact with the new premises licence holder when they had taken over the premises and was told that there had been no reason to check until the review had been put forward from West Sussex Trading Standards.

The respondent was given the opportunity to question the representatives from Sussex Police.

The respondent asked if he had repaired the CCTV the day after faults had been identified by Sussex Police. This was confirmed to be the case by Sussex Police.

The respondent stated that he believed the consent for transfer of DPS was on the form with that of transfer of premises licence holder. The Licensing Officer told members that they were separate forms.

The respondent was invited to make his representation to the Committee which is summarised as follows:

- The illicit tobacco found was in his coat that he had left in the shop and was for personal use. It had been gifted from a friend. He contended that it was only a small amount of product;
- The e-liquid had been sold when he was not in the premises but his colleague had been told about underage sales. He didn't know why his colleague had made the sale.

Members were invited to question the respondent

A Member asked how long the CCTV had not been working prior to the Police licensing visit. The respondent replied that it had been four days as far as he knew.

After being informed a Member noted that 16 packets of various brands was an unusual gift. The respondent told Members that the selection was so his fiancée and he could try out different brands.

A Member asked why he did not know the importance of maintaining an refusals and training logs given that he had only recently attended a course to achieve his personal licence. The respondent told members that he had thought the logs were not mandatory and apologised for his mistake.

A Member asked if the respondent had trained his staff who confirmed he had. Also he had a till that verbally reminded the seller about underage sales the shop also contained signage that stated 'no ID, no sale'.

A Member asked why the respondent had not changed himself to DPS when he took over as premises licence holder. The Respondent stated that he had been told at the Council that the form he had filled in for change of premises licence holder would also change the DPS, he conceded that he should have checked the Licence when it was issued and that it was a genuine mistake.

A Member asked about the additional bag of illicit cigarettes found in the premises and the respondent denied that they were illicit and that they were cigarettes awaiting return to the supplier.

A Member asked why it had taken so long to change DPS once the initial error had been pointed out by the Police and the respondent told members that he had been to the Council straight away and no-one had been available and no-one had contacted him back.

Members questioned the respondent about why he had left his coat with the illicit cigarettes in the shop. He told members that it was a mistake he had gone to collect something from his home and had left his coat behind.

The applicant was invited to question the respondent

The applicant asked the respondent which country his friend had visited to procure the cigarettes and was told that his friend had visited Romania. The applicant commented that the cigarettes found were fake or labelled from Belgium and Belarus

The applicant questioned the respondent's claim that the cigarettes in the bag were from a supplier and reported that after examination they were identified to be fake. The respondent told members that the supplier was genuine and he had receipts to support the claim.

The police were invited to question the applicant

The respondent was asked about the lack of training and refusals records and the type of training that was offered. The respondent told members that he could not afford expensive training and that he had trained his staff verbally. He wasn't aware that he needed to have a record of that training. He was also not aware that it was necessary for him to have a refusals book. The Police contended that a new owner would look at the licence before getting a new premises, the respondent stated that it was his mistake not to check his licence and he apologised.

The parties were invited to sum up

The applicant emphasised the seriousness of the charges against the respondent including selling restricted age products to a minor. He reminded members that there were ongoing criminal investigations into the matter.

The Police representative asked the Committee to seriously consider revocation and that they had not changed their minds following the respondent's representation. The representative stated that it would be inappropriate to consider additional conditions as they would not improve the premises.

The respondent summed up by saying that it was his first business venture and would learn from the experience he apologised for his mistakes and had already made changes.

*The Committee adjourned at 7.50pm to consider its decision and reconvened at 8.40pm*

The meeting was told that in reaching its decision the Committee had given due regard to the statutory licensing objectives, Worthing Borough Council's Statement of Licensing Policy,

Guidance under section 182 by the Home Secretary and Licensing Act 2003, Human Rights legislation and the rules of natural justice. The application and both written and oral relevant representations from West Sussex Trading Standards and Public Health and the Police. The written and oral representations and testimony and relevant information supplied by the licence holder. 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, public safety and The Protection of Children from Harm.

**Resolved:** that the premises licence be revoked.

**Reasons for decision:** As fully outlined in Section 182 of the Licensing Act 2003 guidance namely paragraph 11.27 and 11.28.

The Committee had also taken into account the concerns of West Sussex County Council Trading Standards and Public Health, the Police and the Licensee and have concluded that additional conditions would be inadequate to address the current concerns of illicit tobacco sales, e-liquids being sold to under 18's, cigarettes not meeting British Safety Standards as fully outlined in the report. Each of these concerns is covered by separate legislation but currently undermines and does not promote the licensing objectives, which continues to be a risk to consumers and the community.

The Licensing Committee is satisfied that the current status quo would continue to undermine the prevention of crime and disorder, public safety and protection from children from harm. Therefore a revocation of the premises licence is necessary, proportionate and reasonable in these circumstances.

This also demonstrates that there is poor management of the premises that there is a disregard for the current conditions on the licence, which compromises both the crime and disorder, public safety and prevention of children from harm licensing objectives.

The meeting was declared closed by the Chairman at 8.35pm, it having commenced at 6.30pm.

**Chairman**