

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

Council Chamber, Town Hall, Chapel Road, Worthing

Monday 19 January 2015

Councillor Paul High (Chairman)

Councillor Roy Barraclough

Councillor Robert Smytherman

Also Present:	Simon Jones	Senior Licensing Officer
	Caroline Perry	Solicitor
	Chris Cadman-Dando	Democratic Services Officer
	Ms Jarvis	Objector
	Mr Chris Rees-Gay	Applicant's Solicitor
	Mr Darren Gold	Proposed DPS

LCCB/14-15/22 Declarations of Interest / Substitute Members

There were no declaration of interest

LCCB/14-15/23 Licensing Act 2003 – Application for a new Premises Licence at: Tesco Express, 1-5 Warners Parade, South Farm Road, Worthing

Before the Sub Committee was a report by the Director for Customer Services, a copy of which had been distributed to all members, and a copy of which is attached to the signed copy of these minutes as item 2. The report before the Sub Committee asked Members to consider and determine the application made by Tesco Stores Ltd for a new Premises Licence to authorise the sale of alcohol for consumption off the premise. The licence holders had elected to apply for a new premises licence instead of a variation to the existing licence. In summary, the application was seeking authorisation for the sale of alcohol between the hours of 06.00hrs and 23.00hrs Monday to Sunday included and it was proposed that the store will open to the public between the hours of 06.00hrs and 23.00hrs Monday to Sunday included. The application had been the subject of formal representation by a responsible authority, a local ward councillor and other persons.

The Senior Licensing Officer summarised the application for the Committee. Members were told that mediation had been successful between the applicant and the responsible authority, Sussex Police, and the Ward Councillor making representation.

Ms Jarvis made a representation. It was related that as a local resident she could give a unique perspective on the application being sought. It was contended that the proposed 6am commencement time would bring crime and disorder to the area and cause a public nuisance to families with children who lived in properties above the premises. It was stated that disturbed sleep could hinder a child's development. Members were told that a co-op nearby was applying for a Licence between 7am and 11pm. Ms Jarvis asked how the application benefitted the community and who would be likely to buy alcohol at 6am and consume it.

A Member asked Ms Jarvis about instances of anti-social behaviour at the Tesco's store. The applicant informed Members that the store had been there since 2008 and since that time there

had been smashed windows, people hanging around the street under the influence in groups having arguments and littering. When asked, Ms Jarvis couldn't confirm that the anti-social behaviour had taken place between 6am and 8am in the morning.

The applicant's solicitor declined to question Ms Jarvis.

The applicant's solicitor made this representation as summarised below:

- Tesco were an experienced trader of good reputation across the industry;
- Members were told about mediation that had been undertaken with the ward Councillor and the agreement that the 'enough is enough' be supported in the store but that it not be added as a condition on the licence;
- Members were told that every member of staff were required to pass a training package which included an interactive DVD;
- The store had a community noticeboard and in the recent past had donated £2000 to a local charity. Members were told that the store often made donations for raffles and other similar events in the local area;
- Members were told that the current Duty Premises Supervisor (DPS) had been DPS at the store for the previous two years and was a DPS of long experience having worked at other local stores;
- Members were told that the 6:00am start time was to service people on their way to work or perhaps a mother on her way to school who would be picking alcohol up with other items for an evening meal;
- Members were told that Ms Jarvis had been given the number of the current DPS so she can report any problems she witnessed direct to the store;
- Advertising for promotions and discounts on alcoholic beverages would be displayed not within three metres of the main entrance;
- It was put forward that the Licensing Authority could not consider 'demand' in its deliberations;
- Regarding Smashed windows, Members were informed that the applicant's solicitor and DPS were not aware of this, however it may have happened before the current DPS had been working at the store;
- Members were told that all responsible authorities were invited to make representations, of those authorities only the Police had made a representation which had been mediated. In effect responsible authorities were confident that Tesco would uphold the licensing objectives.

A Member commented that it was unlikely a mother on her way to school would be picking alcohol up at 6am because he was not aware of any schools open at that time and asked if it was usual for people to buy alcohol at that time. The proposed DPS stated that in his experience very few people purchased alcohol at that time, the applicant's solicitor stated that 'need' was not an issue that they could consider.

A Member asked why the shop had applied for an alcohol licence at 6am if few people sought to buy alcohol at that time. The applicant's Solicitor informed Members it was because they wanted their customers to be able to buy everything they needed in one trip.

Ms Jarvis put it to the applicant's solicitor that that a 6am start time was untested in the area. she disputed that it would 'be fine'. The applicants solicitor stated there no evidence that there would be an issue with an earlier start time

Ms Jarvis put it to the applicant that the earlier time could cause a nuisance to direct neighbours to the store. The applicant's solicitor stated that no representations had been received from direct neighbours to suggest that it would be a problem and no evidence from responsible authorities to suggest that it would be a problem.

The meeting adjourned at 7.03pm and reconvened at 7.19pm

The meeting was told that In reaching its decision, the Licensing Sub Committee had given 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 Sub Committee did so with a view to promoting the Licensing Objectives, the relevant objectives here were the Prevention of Crime and Disorder, Prevention of Public Nuisance and the Protection of Children from Harm.

Resolved: that the premises licence should be:

Granted, as requested, for the sale of alcohol between the hours of:

- 0600hours and 2300hours Monday to Sunday inclusive

The licence will contain the conditions that were agreed between the applicant and Sussex Police. These conditions are detailed in a memorandum from Sussex Police dated 16th December 2014 and is produced at pages 26 and 27 of the report attached to the signed copy of these minutes.

The premises licence will also contain the conditions that have been agreed between the applicant and the ward councillor, namely:

- No single cans of beer, lager or cider where the single can is 440ml or less
- If provided, the store will display notices provided by the Local Authority or Police
- The Premises will not stock any beer, lager, or cider with an abv greater than 5.5%

The Licensing Sub Committee is not stating that Tesco Stores Ltd has to join the 'Enough is Enough' campaign as a condition of their licence but would encourage that they do sign up to 'Enough is Enough' campaign for the duration of that campaign.

Reasons for Decision: The licensing sub-committee is satisfied that with the additional conditions that have been agreed, the premises licence would not undermine the licensing objectives. The applicant had taken into account the concerns of the Police and conditions were agreed between the parties prior to this hearing. In addition, further conditions have been agreed to address the concerns of the ward councillor. The licensing sub-committee is of the opinion that these conditions will also alleviate the concerns that have been raised by Ms Jarvis who is a local resident

Advice to Parties Present:

Those who have 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 by the Chairman at 7.23pm, it having commenced at 6.30pm.

Chairman