

Minutes of a meeting of the
Worthing Licensing & Control Committee B
7 October 2020
at 6.30 pm

Councillor Sean McDonald (Chairman)
Councillor Charles James (Vice-Chairman)

Councillor Roy Barraclough
Councillor Mike Barrett
Councillor Keith Bickers
Councillor Ferdousi Henna
Chowdhury
Councillor Karen Harman
Councillor Richard Mulholland

Councillor Richard Nowak
Councillor Jane Sim
Councillor Dawn Smith
Councillor Robert Smytherman
Councillor Nicola Waight
Councillor Steve Wills

Absent

Councillor Paul Westover

1 Declaration of Interests

There were no declarations of interest

2 Confirmation of minutes

The minutes of the Licensing Control Committee B meeting of the 25 February 2020 be approved as the correct version.

3 Public Question Time

There were no questions from the public

**4 Licensing Act 2003 Application for the Review of the Premises
Licence under Section 51 - Molotov Cocktail & Vodka Bar**

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 in question had been received from Chief Inspector on behalf of the Chief Constable of Sussex. Worthing Borough Council was the Licensing Authority that granted the licence and it therefore fell to members to determine the application.

The Chairman of the Committee introduced those present and explained how the meeting would proceed.

The presenting officer outlined the application for members. The applicant confirmed that the officer had provided an accurate outline and the Committee had no questions for the officer.

The applicant's Barrister introduced the application for Review which is summarised as follows:

- There had been previous applications in respect of the premises and the continued behaviour of the premises meant that it could not be permitted to continue;
- It was put forward that evidence submitted demonstrated that once a review on the premises was over then the operation of the premises 'drifted' back to what it had been;
- Themes present at previous reviews repeated themselves which included failure to comply with conditions and poor general management;
- Members were told that at the least the current DPS should be removed from the premises
- The respondent's Barrister set out the respondent's case which is summarised as follows:
 - In 2018 there were only two issues at the premises among 42,000 people that had visited the premises in that year;
 - In 2019 there was only one issue at the premises among 42,000 people that had visited the premises in that year;
 - In 2020 there was only one incident;
 - In the previous year there had been 3 inspections and the DPS had been told that everything was in good order and that there were no issues;
 - The premises was a new corporate body from September 2019 and was not responsible for what had gone before;
 - Information that had been put before the Committee included evidence in relation to a neighbouring club (a different premises) which was not associated with the Molotov. Members were told that the inclusion of this evidence by the police was misleading;
 - In relation to an incident in 2018 as set out in the evidence members were told that the police did not take the matter further as it was minor in nature and not in the public interest to continue. The evidence stated that a member of the public had called in the incident, this was disputed and the premises maintained that a Member of the SIA door staff had called the Police and that the premises had indicated that it was willing to give statements if necessary.
- The premises was well established within pubwatch and was a welcome asset of the organisation;
- An incident occurring in February 2019 referred to in the evidence was in relation to the neighbouring premises and was not relevant to the Molotov;
- An incident referred to March had occurred after a person was refused entry to the premises and not ejected from the premises as indicated in the evidence. The matter therefore should not be considered by the Committee;
- An incident referred to in October 2019 was subjudice and would be discussed in greater depth in Part two of the meeting;
- Members were asked to consider why the application for review had been made. It was purported that there was a personal element to the reviews brought against the premises. The premises had enjoyed a good relationship with previous inspectors and had always tried to work with the Police;

- Accusations of a lack of management had not been supported and there was no primary evidence to support this;
- Members were asked where the graduated approach to enforcement had been;
- Very few matters had arisen since the last review and the most recent review was inappropriate.

The Chairman invited members to question the respondent. The respondent was questioned about claims regarding actions arising from incidents described by the Police.

5 Exclusion of the Press and Public

Resolved: that under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting from the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the paragraph of Part 1 of Schedule 12A to the Act indicated against the item'

6 Licensing Act 2003 - Application for the Review of the Premises Licence under Section 51

The Committee took representations from both parties concerning the nature of evidence submitted as exempt and whether or not the committee should consider it. The respondent stated that as some of the evidence concerned an ongoing investigation then it was therefore sub-judice and should not be considered. This included some video evidence submitted by the Police.

The Committee agreed that it would adjourn to consider legal advice and that the meeting would reconvene the following day

The meeting was adjourned at 8.45pm and was reconvened at 6.30pm on the 8 October 2020.

On reconvening the parties were invited to submit their views on the submission and consideration of evidence

Committee informed parties of its decision concerning evidence submitted as exempt. The Committee retired to consider submissions from parties and written legal advice.

The meeting was adjourned at 6:45pm and was reconvened at 7pm

Upon returning to the meeting the Chairman announced that the evidence submitted by the applicant, however there would be no viewing of the submitted video as the committee had a written transcript detailing what had happened.

Questions

Members asked questions in relation to the operation of body worn cameras the status of new companies and disagreements as to whether a patron had been removed from the premises or had been refused entry. Members were told that body worn cameras did not operate fully on all of the time and that they were set to standby and turned on when needed. This meant that sometimes an incident would be missed due to SIA door staff not having time to turn their cameras on if an incident was immediately pressing.

The respondent questioned the applicant on incidents detailed within the application and was questioned by the applicant of matters within the respondents submission

Summing up of the applicant

The applicant's representative summed up which is summarised as follows:

- There had been no harassment of the licence holder;
- The Police had taken a staged approach to enforcement;
- The fact that no further action had been taken concerning the incidents was a misreading of the incidents and the incidents showed the failure of the premises;
- The premises had been involved with incidents just four months following the previous review and the management of the premises demonstrated irresponsibility;
- Excessive levels of drunkenness were demonstrated at the premises;
- The premises had demonstrated obstructive behaviour when asked to provide CCTV footage;
- The fact that body worn cameras had not been turned on at all times was not an irrelevant issue;
- The respondent had claimed that the incident in March had involved someone being refused entry when there was evidence to show that he had been ejected from the premises;
- The most recent incident had demonstrated a number of failings with the premises;
- Recent incidents had demonstrated that the premises was being mismanaged

Summing up of the respondent

The respondent's representative made a submission which is summarised as follows:

- Matters set out in the application by the police had led to no further action
- In 2018 there had been but two incidents
- Police had stated in relation to one incident that the police had been called by a member of the public when in fact the premises had contacted the police which demonstrated the responsible nature of the premises;
- Police had visited the premises numerous times and found no issues which they had failed to report in their application which demonstrated a lack of transparency;
- The premises had over 42k patrons per year;
- The police were factually incorrect when they had claimed that an incident had been caused by someone kicked out of the premises when in fact he had been refused entry;
- The applicant felt that there had been a certain degree of harassment from the police

The licensing Committee adjourned to make a decision and informed the meeting that the decision would be sent to all parties within five working days

In reaching its decision the Licensing Committee has given due regard to the following:

- The Statutory licensing objectives

- Worthing Borough Councils Statement of Licensing Policy
- Guidance issued under Section 182 by the Home Secretary
- The Application, written/oral representations made at the hearing and in writing
- The Committee also gave regard to human rights legislation and the rules of natural justice

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 prevention of public safety.

Resolved: To take no action

Reasons for decision: The Licensing Committee considered all the relevant evidence in this matter and were not satisfied that that Licensing Objectives of Crime and Disorder and Public Safety were being undermined by the Licence Holder. They do not consider that the evidence before them was proportionate to take any action given the minor nature of any failures.

The Licensing Committee would recommend that body worn video training and ID checker scanner training is undertaken regularly to remind staff of the importance of using it in all circumstances to ensure that the licensing objectives continue to be Upheld.

The Licensing Committee would encourage the police and the licence holder to liaise regularly to work together to uphold and promote the licensing objectives.

The meeting ended at Time Not
Specified