

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

The Gordon Room, Worthing Town Hall

30 August 2023, 6.30 pm

Councillor Henna Chowdhury (Chair)

Councillor Cathy Glynn-Davies

Councillor Richard Nowak

LCSC/21/23-24 Declarations of Interest / Substitute Members

There were no substitute members.
There were no declarations of interest.

LCSC/22/23-24 Public Question Time

There were no questions from members of the public.

LCSC/23/23-24 Members questions

There were no questions from members.

**LCSC/24/23-24 Licensing Act 2003 – Application for the Review of the Premises
Licence under Section 51**

The Licensing Officer outlined the application explaining that the application for this review had been made by Trading Standards following a alcohol test purchase failure performed by a 16 year old trading standards volunteer. At the time of this event the owner, licence holder and Designated Premises Supervisor (DPS) was Mr Gowriedas. The Officer also drew Members attention to the fact that another of Mr Kodeswaran's premises, in 2022, had its licence revoked under similar circumstances.

The Officer explained that the Licensing Department had, on 15th August 2023, received an application to transfer the premises licence and nominate a new DPS. The proposed new Licence holder was to be S J Harish Ltd and the proposed new DPS was to be Mr Mahendran Gowthaman. He confirmed that, as Sussex Police had raised no objection to this, both were now deemed granted.

The Officer confirmed that two representations from responsible authorities (West Sussex County Council's Trading Standards and Sussex Police) had been received but none had been forthcoming from members of the public. Sussex police were not present at the meeting but the Officer confirmed that they supported Trading Standards view that the licence should be revoked but if not, they had suggested a raft of new conditions to ensure the premises upheld the licensing objectives in the future.

The applicant confirmed that the Licensing Officer had provided an accurate outline of the application.

Questions from Members for the presenting Officer

Members noted that Mr Sinnathamby Jeyanantham had been the seller who had failed the test purchased carried out by Trading Standards and questioned whether the S J Harish Ltd of which Mr Jeyanantham was a director, was the same company who was now deemed the new licence holder of Tarring News and Wine. The Officer confirmed that that was the case. Members asked for confirmation from Officers that Mr Kodeswaran involvement with Tarring News and Wine was now limited to being the landlord. The Officer established that he believed that to be the case but suggested that the new licence holder would be able to confirm that for members in due course.

Representation from Trading Standards

The Trading Standards Officer gave an in depth reiteration of his report within the agenda bundle.

Questions from Members for the Trading Standards

Members asked the Officer to confirm that the current licence holder was not the same as the one at the time of the failed test purchase. The Officer confirmed this was the case but also clarified that, in such a case as this, the criminal offence is committed by the seller of the alcohol, which in this instance was Mr Jeyanantham who was a director of the company that was now deemed the licence holder of the premises.

Questions from Licence holder's representative for the Trading Standards

The Licence holder's representative had questions for the Trading Standards Officer regarding the intelligence they had received regarding the premises, the test purchase, the refusal's log and tobacco age warning posters.

Representation from the Licence Holder's representative

The Licence holder's representative gave a representation explaining that Mr Jeyanantham had made a genuine mistake when he sold the alcohol to the underage customer and was extremely sorry. He stated that the business had since been very proactive in rectifying their shortcomings, for example displaying many underage sales warning signs and installing an electronics refusals log as well as the manual one. In addition the premises had a new Licence holder and DPS.

He urged Members to understand that he considered that punishment was not appropriate in this instance as the business desired to promote the licensing objectives and had now put in place measures to ensure that they did. He also brought attention to the fact that there had been no public representations regarding this review and the premises was very much a shop that served the community.

Questions from Members to the licence holder

Members had questions for Mr Jeyanantham regarding the failure of the test purchase and queried why, with a background working in the off licence trade, did he work at the premises for ten months before the correct underage warning signs were displayed.

Mr Jeyanantham explained that customers sometimes moved stock so that the posters became obscured. He also stated that they had limited space within the premises but they had now ensured there were the correct amount of posters displayed.

He also clarified that the staff would receive refresher training regarding alcohol sales every three months.

Questions from trading standards and the police to the licence holder

None.

Summing up of those who made representations and of the licence holder

Both parties summed up reiterating aspects of their representations.

The meeting adjourned to go into closed session at 7.35 pm

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

- The statutory licensing objectives
- Worthing Borough Councils Statement of Licensing Policy
- Guidance under section 182 by the Home Secretary and Licensing Act 2003.
- 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 Prevention of Crime and Disorder, Prevention of Public Nuisance and Public Safety.

Resolved: That the conditions of the Premises Licence be modified – namely the conditions at Annexe 2 of the current Premises Licence to be removed and to be replaced with the conditions in the Police representation detailed at pages 43 to 47 inclusive of the agenda bundle.

The reason for the decision is: The Sub-Committee listened carefully to all written and oral evidence. They determined that the concerns raised by Trading Standards and supported by Sussex Police and West Sussex Public Health Authority was that alcohol had been sold to a child on one occasion on the 24 th May 2023. The Sub-Committee were extremely concerned to hear this had occurred and view the licensing objective of protection of children from harm extremely seriously.

This offence was admitted by Mr Jeyanathan who was working at the premises at the time although he is now the premises licence holder. The nominated DPS was not working at the premises at the time of the offence.

In addition Trading Standards found that the following areas were below requirements:

- There was no A3 sized sign advising that tobacco cannot be sold to under 18's which is a legal requirement.
- Training records were not available when requested (breach of condition of premises licence).
- Proof of age policy for under 21's had not been enforced (breach of condition of premises licence).
- CCTV was at the premises however Mr Jeyanathan was unable to operate it.
- Challenge 25 posters were not in place.

When questioned by Trading Standards at the time of the offence, Mr Jeyanathan apologised for selling to a child, stating the shop had been busy at that time and that he had made an error in judgement.

Since the 24th May 2023, the following have been provided to Trading Standards by Mr Mahendran Gowthaman, who is now the DPS:

- Photographic evidence of challenge 25 posters (not a condition)
- Challenge 25 police / training document – signed on 25th May
- A further refusals log provided
- Staff training logs dated 25th May

Sussex Police also undertook a visit to the premises on 20 th July 2023, they found the current DPS, Mr Gowthaman was working at the shop and they found compliance with the current licensing conditions, and that:

- Premises licence now on display
- Six challenge 25 posters were on display
- Refusals log has been purchased and contained many entries since May 2023
- CCTV was checked and was of good quality, there were 12 cameras in operation

On the 15 th August 2023 an application to transfer the premises licence and DPS was received by the Licensing Unit. No objections were received from Sussex Police and therefore the DPS is now Mr Gowthaman and the premises licence holder is SJ Harish Ltd.

The Sub-Committee considered the causes identified and what remedial action was needed to be directed at these causes.

The previous DPS lives in Croydon and it was clear from the representations he did not have direct involvement with the running of the business. In addition the previous DPS had another premises licence revoked in June 2022 (currently subject to an appeal). In questioning, Trading Standards confirmed that they had only received one intelligence report in the last 'year or two' from a member of the public regarding this premises.

Since the offence in May 2023 Mr Gowthaman has complied with both Trading Standards and the Police and has ensured his premises is now fully compliant with the licence conditions and, in addition, he has stated he will accept the more onerous conditions requested by the Police. As such, the Sub-Committee are of the opinion that with the

changes to the DPS and the enhanced Police conditions these are sufficient measures to promote the licensing objectives and that these are proportionate measures.

The Sub-Committee would like to make it very clear that it does take this matter extremely seriously and it is only due to the changes made by Mr Gowthaman that more serious action was not taken on this occasion, The Sub-Committee would be extremely disappointed should a further similar offence occur in the future.

The meeting ended at 7.35 pm

Chair