

**Minutes of a meeting of the  
Worthing Licensing and Control Sub-Committee B  
5 September 2023  
at 6.30 pm**

Councillor Ferdousi Henna Chowdhury (Chair)

Councillor Richard Mulholland

\*Councillor Helen Abrahams

\*Absent

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**LCSC/25/23-24      Declarations of Interest / Substitute Members**

There were no declarations of interest.

Councillor Richard Mulholland substituted for Councillor Helen Abrahams.

**LCSC/26/23-24      Public Question Time**

There were no questions from members of the public

**LCSC/27/23-24      Members questions**

There were no questions from members.

**LCSC/28/23-24      Licensing Act 2003 – Application for the Review of the Premises  
Licence under Section 51**

Before the Sub-Committee was a report by the Director for Communities, which has been circulated to all Members, a copy of which is attached to the signed copy of these minutes as item 4. Members were requested to consider and determine an application for the Review of the Premises Licence under Section 51.

**Presenting Officer outlined the application**

The Licensing Officer outlined the application explaining that it had been made by Sussex Police for the licence holder Dimora Evolution Ltd for Cost Less Express, South Farm Road, Worthing. The Officer highlighted an error within the report explaining that on page 4 of the report at 3.6 it should read

- Sale of alcohol for consumption off the premises between:
  - 07.00hrs and **midnight** - Monday - Sunday

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

**Questions from Members for the presenting Officer**

There were none.

## **Representation from Sussex Police**

The Sussex Police Officer presented his report, explaining in detail the attempts they had made to take a stepped approach in addressing the many licence breaches that had occurred at the premises. He outlined the lack of response they had received from the licence holder leading to the review application.

In addition two errors within the report were highlighted, the first being on page 41, paragraph 2, 9th March 2023 should read 9th March 2022 and the second being on paragraph 4 of the same page, 13th April 2002 should read 13th April 2022

## **Questions from Members to Sussex Police**

It was noted that, between the complaints and the test purchase, a year had passed and Members voiced concern that residents had been exposed to such a serious situation during this time. The Officer explained that they utilised Police Cadets to perform test purchases but this had been suspended during this period due to ongoing covid safety measures.

## **Questions from licence holder to Sussex Police**

The licence holder's representative asked the Sussex Police Officer for clarification on the amount of complaints received.

## **Representation from Trading Standards**

The Trading Standards Officer gave a representation supporting the Sussex Police's application and outlining their own investigations into the premises' sales of illegal tobacco products.

## **Questions from Members to Trading Standards**

Members asked the Trading Standards Officer if they shared intelligence with the Police to which the Officer replied in the affirmative. However the Officer clarified for the Member that he was not aware of alcohol with only Polish labelling being on sale at the premises before seeing the review application.

## **Questions from licence holder to Trading Standards**

The licence holder's representative questioned why some evidence of intelligence received wasn't included in the agenda papers. The Officer clarified that sometimes intelligence received was from an anonymous or unproven source. A test purchase was then performed and the resulting documentation was the evidence.

## **Representation from the licence holder's representative**

The licence holder's representative made a representation to the committee stating that mistakes had been made in the past and a conclusion had been drawn by the applicant that the best way for the business to move forward was to appoint a new DPS. This was proposed to be a current member of staff who was in the process of applying for her personal licence. The applicant's representative clarified that the licence holder was happy to have a short suspension of a couple of weeks while this handover took place.

He also explained that many improvements had already been made within the premises such as the correct age challenge posters being displayed, a refusals log being on the premises, the alcohol store having a new lock fitted and alcohol refusal training now being given.

### **Questions from Members to the licence holder's representative**

Members asked for further clarification that some of the more serious allegations within the report had also been addressed and the licence holder's representative reiterated that with a new DPS, who would be very aware of all the licensing conditions, none of these issues would reoccur.

### **Representation form the licence holder**

The licence holder addressed the committee explaining that he felt victimised by the authorities. He clarified that the alcohol with Polish labelling was left over stock from the previous business owner. He stated that he had not sold the sort of vapes described within the review application and that he had not received the two letters the Police officer claimed to have delivered to the premises.

### **Questions from those who made representations to the licence holder**

The Sussex Police Officer stated he was in charge of checking the licensing standards of 2045 premises in this area and this was the only complaint of victimisation he had received. He reiterated the two lengthy letters that had been hand delivered to the premises and how they had been designed to help the licence holder and work with him to retain his licence.

### **Summing up of those who made representations and of the applicant**

Both parties summed up reiterating aspects of their representations.

*The meeting adjourned to go into closed session at 8.06 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 and the protection of children from harm.

**Resolved: The Committee resolved that the premises licence should be revoked.**

## **The reason for the decision is:**

The Committee carefully read and listened to all of the written and oral evidence. They determined that the concerns raised by Sussex Police and supported by West Sussex County Council Trading Standards and West Sussex County Council Public Health Directorate related to various breaches of licence conditions and that alcohol had been sold to a child on 31 May 2023. The Committee were extremely concerned to hear this had occurred as they take the licensing objectives of the prevention of crime and disorder and the protection of children from harm very seriously.

The Committee considered the evidence given by Sussex Police. This detailed that they had received three separate complaints in late 2021 to early 2022 about age restricted products being sold to children. It was noted that the premises is in a densely populated area and with several schools nearby. The Police attended the premises on three occasions in January 2022 (11th, 15th and 19th) and found there to be various breaches of the conditions of the licence including issues with the CCTV, only one Challenge 25 poster on display, beer and cider of higher than 6% ABV being sold, and spirits on display that were not behind the service counter beyond arm's reach of the public. When the Police visited on 15 January 2022, the member of staff spoken to stated that they had not been trained in the lawful selling of age restricted products, they had no knowledge of the challenge 25 policy and there was no refusals record. The premises was very badly organised with alcohol on display with other products on shelves and on the floor, putting it out of the view of staff and increasing the risk of shoplifting. There was beer on display with Polish labelling rather than English labelling which is a separate offence.

Mr Ashraf, the DPS was present when Police visited on 19 January 2022. He was spoken to about the various breaches of licence conditions. The Police felt that Mr Ashraf was completely unclear on what the licence conditions were and so they advised him on what he needed to do to comply with them. On 11 February 2022, the Police wrote a letter to Mr Ashraf setting out the licence breaches and that he needed to remedy these. This was hand delivered to a member of staff.

Police attended the premises again on 9 March 2022. Mr Ashraf was present and the Police reported that he told them he had received their letter of 11 February 2022. Despite this, it appeared to the Police that no improvements had been made and the various licence breaches previously identified were continuing. A further letter was written to Mr Ashraf by the Police on 8 April 2022 setting out the breaches and requesting that he address them as a matter of urgency.

It was established that a violent armed robbery occurred at the premises on 13 April 2022. The Committee then heard that the next Police visit was not until 31 May 2023, when a test purchase was carried out at the premises. A 16 year old volunteer was able to purchase a bottle of beer from a female member of staff without any checks on their age being carried out. Mr Ashraf attended the premises shortly after this whilst the Police were still present. It was noted by the Police that beer and cider of over 6% ABV was still being sold and alcohol was on display on shelving mixed in with soft drinks. The CCTV was still not compliant with the licence condition and Mr Ashraf was unable to produce written training records for any staff members. Mr Ashraf could not produce a refusals book for occasions when sales of age restricted products had been refused. Although a padlock had been fitted on the stock room, the door was wide open. A door had been fitted to the entrance to the service counter so that spirits were out of arm's reach from the public but the door was open.

The evidence given by West Sussex County Council Trading Standards related to vapes and e-cigarettes. They had received intelligence on 20 June 2023 that vapes had been sold to a 15 year old child. On 20 July 2023 Trading Standards visited the premises and found 195 oversized vapes on sale or in possession for sale. These were seized.

The evidence from the West Sussex County Council Public Health Directorate set out the damaging impact of alcohol on young people.

Mr Ashraf's representative felt that there was a lack of evidence presented by the Police and Trading Standards, especially when it came to intelligence they had received about alleged sales of underage products to children. He stated that Mr Ashraf is not capable of being a DPS and proposed that he should be removed and that the female member of staff who had sold the alcohol to the 16 year old on 31 May 2023 would become the DPS. It was explained that the proposed DPS has recently undergone training and has applied for a personal licence. It was said that improvements have been made recently including staff training and a staff training manual, a refusals book being in place, and Challenge 25 posters being displayed. It was suggested that the licence should be suspended for 2 weeks to allow time for the new DPS to be put in place.

Mr Ashraf then spoke on his own behalf. He said he did not sell age restricted products to children and that he had told the proposed DPS not to sell alcohol to under 18's. He said he had been unaware of the regulations around vapes until Trading Standards had visited his shop on 20 July 2023. Mr Ashraf stated that the shop was tidier now and that they no longer sold strong alcohol. He said that the CCTV was now compliant with the licence condition and he had tried to do what the Police had asked on their visits. He denied receiving the letters the Police said they had hand delivered.

The proposed DPS stated in response to a question from the Committee that she has been managing the shop for the last 10 months.

The Committee deliberated the evidence that had been put before them at length. They felt that the evidence of the continued breach of licence conditions over a lengthy period of time and of the sale of alcohol to a child was very serious and significantly undermined the licensing objectives of the prevention of crime and disorder and the protection of children from harm. The Committee noted that the shop is in a densely populated area and is close to several schools. Given that the Police first visited the premises in January 2022, there had been a long time for improvements to have been made, but little had been done by the time of the test purchase on 31 May 2023. Even if Mr Ashraf had not received the letters from the Police, he had spoken to them on their visits on 19 January 2022 and 9 March 2022 and he should have been aware of the conditions on his licence and complied with them. The Committee agreed with the admission from Mr Ashraf's representative that he is not fit to be the DPS.

The Committee considered what remedial action was needed to ensure promotion of the licensing objectives and they were not satisfied with the suggestion that Mr Ashraf be removed as DPS and a short period of suspension imposed, with a view to him being replaced with the proposed DPS. They felt that this would be an inadequate response to the problems presented. In evidence, the proposed DPS stated that she had been managing the premises for the last 10 months. This meant that at the time she sold alcohol to the 16 year old volunteer on 31 May 2023, she would have been managing the premises for approximately 6 months. That she made no attempt to seek identification

from the volunteer was highly concerning, particularly when there was a Challenge 25 condition on the licence and Mr Ashraf had stated that he had told her not to sell alcohol to anyone aged under 18. The Committee had no confidence that the licensing objectives would be promoted through this approach. Although the Committee had been told that recent improvements had been made, they were not persuaded that the premises would not trade irresponsibly in the future and that the licensing objectives of the prevention of crime and disorder and the protection of children from harm would not continue to be undermined.

In all of the circumstances, the Committee found that it was necessary and proportionate in order to promote the licensing objectives, to revoke the licence.

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The meeting ended at 8.06 pm

**Chair**