

LICENSING SUB-COMMITTEE

11 December 2023 at 10.00 am

Present: Councillors McAuliffe, Cooper and Madeley

Also in attendance for all or part of the meeting were:
Joshua Marsh – Technical Support Assistant
Louise Dewberry – Licensing Officer
Neil Williamson – Environmental Health Team Manager
Andrew Burrows – Licensing Officer
Daniel Shing – Council Lawyer
Trading Standards – Peter Aston
West Sussex Public Health - Sophie Krousti
Katherine Davis – Committee Services Officer

The applicant for Item 5 was present and not represented.
The reviewee for Item 6 was present and represented

7. ELECTION OF CHAIRMAN

Prior to the commencement of the meeting it had been agreed that Councillor McAuliffe would chair the meeting. The Chair then invited all parties present to introduce themselves.

8. DECLARATIONS OF INTEREST

There were no declarations of interest made.

9. ITEMS NOT ON THE AGENDA WHICH THE CHAIRMAN OF THE MEETING IS OF THE OPINION SHOULD BE CONSIDERED AS A MATTER OF URGENCY BY REASON OF SPECIAL CIRCUMSTANCES

The Chair confirmed that there were no urgent items for this meeting.

10. EXEMPT INFORMATION

The recommendation to enter into exempt business was proposed by Councillor Cooper and seconded by Councillor Madeley.

The Sub-Committee

RESOLVED

That under Section 100a (4) of the Local Government Act 1972, the public and accredited representatives of newspapers be excluded from the

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meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act by virtue of the paragraph specified against the items.

11. APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE - EXEMPT PARAGRAPH 1 OF PART 1 OF SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972

The Chair explained that this was a formal meeting and that he would invite those present to speak in the Order of the hearing procedures agreed at the Licensing Committee held on 23 June 2023, which had been circulated to the meeting.

The Sub-Committee received the report of the Licensing Officer, which set out the detail of an application for a hackney carriage/private hire driver licence application. Due to Council Policy and in light of the nature of the driving offences, the application had to be presented to this Sub-Committee for consideration. It was explained that the applicant had appealed the decision made by another Licensing Authority to revoke his licence and was currently awaiting a hearing date at the Magistrates Court.

Following the Council's procedure for Licensing Sub-Committees, detailed representations were heard from the relevant parties in attendance, followed by questions from the Sub-Committee which were responded to by the applicant at the meeting. The applicant advised on the circumstances of the speeding offences and of his failure to notify the Licensing Authority of the revocation of his driver licence by another Local Authority. He apologised and spoke of the impacts of the revocation on his life and livelihood. The Panel then retired to consider its decision.

The meeting was then reconvened and the Chair advised that the Sub-Committee had taken into account all the representations made before them, both written and oral in respect of this matter, and also had due regard to the Statutory Guidance, the Council's own Licensing Policy and public safety as to whether the Applicant was a fit and proper person. The decision of the Sub-Committee was then delivered to all present.

The Sub-Committee

RESOLVED

That having considered all the evidence available from the applicant and the Licensing Officer, and the Council's Licensing Policy, the Sub-Committee considered the mitigation put forward from the applicant and concluded that the applicant was a fit and proper person to be granted a licence.

The Sub-Committee also considered the range of options available to them and in the circumstances felt that it was appropriate for the applicant to continue subject to the conditions set out at paragraph 3.2 of the Licensing Officer's report to

the Sub-Committee which is to agree the application to continue and grant the licence subject to those conditions a) to h).

The Sub-Committee took the opportunity to remind the applicant that he has a responsibility to notify the Council of matters which may affect his licence as set out in the Council's Licensing Policy, in addition, he can contact the Council's Licensing team who are available to give advice and assistance.

It is noted that the applicant was not represented and should seek independent legal advice as to his rights of appeal to the Magistrate's Court should he wish to.

12. LICENSING ACT 2003, S51 APPLICATION FOR REVIEW OF A PREMISES LICENCE

The Chair noted that this hearing remained in closed session following a request by the applicant to have the review held in camera due to ongoing criminal investigations. He advised that it was a formal hearing that would follow the hearing procedures approved by the Licensing Committee held on 23 June 2023. He asked if any representations had been received to enable the hearing to be dispensed with and was advised by the Licensing Officer that none had been received. The hearing was then formally commenced.

In line with the Council's licensing procedure, detailed representations were heard from all parties present.

The Licensing Officer presented the report which outlined the detail of a case concerning an application from West Sussex County Council Trading Standards for Bucharest Supermarket, 70-72 London Road, Bognor Regis, PO21 1PT. On the basis that the licensing objectives for the prevention of crime and disorder and the protection of children from harm have been undermined. Supporting representations were received from the West Sussex Public Health Directorate and Sussex Police who both contended that the licensing objectives for the prevention of crime and disorder and the protection of children from harm have been undermined.

West Sussex Trading Standards and West Sussex Public Health each presented their case, followed by questions from the Sub-Committee and other parties present which were responded to at the meeting. Trading Standards advised a request had been made to the premises licence holder to provide invoices for the purchases made, photocopies of which had been received today. It was noted that the invoices received had not yet been checked for authenticity.

The licence holder and his representative made representations and answered questions from the Sub-Committee and other parties present. The licence holder and his representative explained that since concerns had been raised by West Sussex Trading Standards they had put measures in place to address them, which included further training for staff. He confirmed that all products brought for sale on the premises had corresponding invoices and advised that his client had changed supplier.

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All parties were given the opportunity to sum up. The Sub-Committee then retired to consider its decision.

The Chair then undertook a vote to extend the meeting by an additional 30 minutes in line with Part 5, Rules of Procedure (Meetings), Section 2, Committee Procedure Rule 8.1. This was then declared CARRIED.

On reconvening the meeting, the Chair read out the following statement:-

The Sub-Committee has considered the representations within the report and those present for a review of a premises licence at Bucharest Supermarket, 70-72 London Road, Bognor Regis, West Sussex, PO21 1PT.

The review was brought by West Sussex County Council's Trading Standards Team on the grounds of:

1. The Prevention of Crime and Disorder
2. The Protection of Children from Harm

The Sub-Committee has considered the written representations made by West Sussex County Council's Trading Standards Team, West Sussex Public Health Directorate and Sussex Police (who were not present) and presentations given by the parties present.

West Sussex Trading Standards Team and the Public Health Directorate had raised concerns over how the Bucharest Supermarket was operated with products and labelling which had not conformed to the required standards isolated issues from a former member of staff. The premises licence holder and his representative explained that since the concerns were raised by West Sussex County Council they had put measures in place to address them, such as further training and providing information requested by Trading Standards.

The Sub-Committee also considered the report before them in detail to make a decision in accordance with the licensing objectives and also had due regard to the following:

- Licensing Act 2003's statutory licensing objectives
- Arun District Council's Statement of Licensing Policy
- Guidance under Section 182 by the Home Secretary and Licensing Act 2003
- The application and both written and oral relevant representations by the parties

The Licensing Sub-Committee has considered all the range of options available to them for failing to meet the licensing objectives sought in the review and decided to:

1. Suspend the premises licence for a period of 2 months from 1 January 2024 at 00:00 hours.

The Committee concluded that additional conditions would not be appropriate as it appears that the licence holder is taking steps to address the concerns of West Sussex County Council to address the current concern for the review whilst the concerns are also covered by separate legislation. The Licensing Sub-Committee was satisfied that a 2 month period of suspension would allow the licence holder to trade up until the New Year and proportionate and reasonable in the circumstances.

Given that the licence holder has been in contact with the Licensing Team and responsible authorities following this review, it is hoped that the concerns of this review can be addressed going forward.

It is noted that the licence holder was represented and should seek legal advice on his rights regarding an appeal should he wish to.

The Licence holder is also invited to contact the Council's Environmental Health and Licensing Team for advice and assistance.

The Sub-Committee therefore

RESOLVED – To

- (1) Suspend the premises licence for a period of 2 months from 1 January 2024 at 00:00 hours.

(The meeting concluded at 1.29 pm)