

**LICENSING REVIEW SUB-COMMITTEE
24 JANUARY 2012**

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~~*Please note that these are draft minutes and will not be ratified by the committee until its next meeting*~~

Present: Councillors Bird, Cartwright and Stevens (in the Chair)
with Councillor Forward in reserve.

20. APPOINTMENT OF CHAIR

In accordance with the terms of reference of the Licensing Committee, the Senior Solicitor invited nominations for the appointment of Chair for the duration of the meeting. Councillor Bird moved that Councillor Stevens should take the Chair. This was seconded by Councillor Cartwright

RESOLVED (unanimously) that Councillor Stevens be appointed as Chair for the duration of the meeting.

21. MINUTES

RESOLVED – That the minutes of the meeting held on 25 October 2011 be approved and signed by the Chair as a true record.

22. DECLARATIONS OF INTEREST

Councillors made no declarations of interest at this meeting.

**23. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE:
MARINA NEWS, 39 MARINA, ST. LEONARDS ON SEA**

Councillor Stevens set out the procedure that the Sub-Committee would adopt (in accordance with Standard Practice), both the applicant and the interested party confirmed they understood this.

The Corporate Director, Environmental Health, submitted a report on an application for the review of Marina News, 39 Marina, St. Leonards on Sea, as a result of representations received.

Mr Brown, Licensing Manager, presented the report. With the agreement of the Chair, he read a statement signed by the Licence Holder, Mr Patrick Green, which explained why Mr Green was not present at the meeting and that he was happy for the hearing to go ahead in his absence.

LICENSING REVIEW SUB-COMMITTEE
24 JANUARY 2012

Mr Brown stated that a petition had been received from local residents in support of Marina News. The petition was received outside the 28 day representation period and therefore could not be considered.

Sandra Thornton, Team Manager, East Sussex County Council Trading Standards Service, who brought the review was present, she informed the Committee that an inspection of Marina News took place on 12 October 2011, as a result of intelligence that had been received regarding the sale of counterfeit DVD's. Two Trading Standards Officers visited the shop and found a large quantity of what they believed were counterfeit DVD's.

Furthermore, she stated that counterfeit DVD's without correct labelling could expose children to an 18 Certificate film which is in contravention of the licensing objective, Protecting Children from Harm. Additionally, she referred to the four bottles of Russian Standard Vodka that were seized, a sample was sent for analysis at Worcestershire County Council Scientific Services using powers under s29 of the Food Safety Act 1990. The report concluded that the sample tested was 'unsatisfactory', the alcohol level was in excess of the minimal tolerance level; the presence of 'T butanol' indicated that the vodka was of industrial origin, and an excess of 'ethyl acetate' and 'amly alcohols' exceeded that permitted by the Spirit Drink Regulations 1998. Also, there was no information regarding the business name and address of the manufacturer, or registered office for the packer or seller as required by the Food Labelling Regulations 1996, and there were no batch codes or numbers that are required by the General Food Regulations 2004. She stressed that the Food Agencies had advised counterfeit vodka could potentially be harmful to health, therefore it is vital to be able to trace the retailer from the label.

Mr Barnaby Brown, Senior Trading Standards Officer, was present, he reiterated the fact that the bottles of Russian Standard Vodka had no traceability. He went on to say if they had injured someone, there would have no way of knowing where it came from; what was in it, or how many bottles were out there. He referred to his witness statement and inspection of the premise and added that whilst examining the bottles of Vodka they did not fluoresce under UV light, indicating that they were counterfeit. He quoted a number of press related articles regarding counterfeit alcohol incidents, and stated that there is an issue in East Sussex regarding under age drinking and the supply of counterfeit vodka at cheap prices, the effect of which supports the black market and impacts on the NHS and the economy.

Sandra Thornton highlighted the fact that whilst a small quantity of counterfeit vodka had been seized, there would normally be more available than what could just be seen on the shelf. She said that what was seized undermined the licensing objectives on Crime and Disorder and the Protection of Children from Harm and strongly recommended the premise licence be revoked. Additionally, she asked the Committee to consider the wider impact on the local area as well as the legislation.

Councillor Cartwright sought clarification on whether the counterfeit vodka was a threat to health. Sandra Thornton confirmed that if the vodka was

LICENSING REVIEW SUB-COMMITTEE
24 JANUARY 2012

drunk in large quantities it could make you go blind. Mr Barnaby Brown added that there had been past cases of renal failure.

Councillor Stevens asked if the Russian Standard Vodka was the only suspicious substance found, or whether it was just a sample of what was found. He was informed that the other brands on display were legitimate and for sale at the correct price. Also, where dependency was an issue, customers would be inclined to go for the cheaper option.

Cllr Bird was informed that whisky is the second most likely drink to be counterfeited, Vodka being the easiest to counterfeit.

Councillor Stevens sought clarification on the sale of the DVD's. He was informed they could be ordered by facebook, email or text. The labels are subject to further investigation.

Jean Irving, Sussex Police Licensing Officer was present, she informed the Committee that the police had received intelligence regarding activity at the rear of Marina News. With the agreement of the Chair, she circulated a set of photographs for the Committee to consider, which were taken during the police raid of the store room at the rear of Marina News, abutting the premises. She highlighted the fact that the storeroom was not on the premises, but could only be accessed via the shop. She went on to say that it was inconceivable to perceive that Mr Green did not know it was there. She added that in his written statement Mr Green had said that he had never had a criminal conviction, she informed the Committee that his statement was incorrect, because he had received a criminal caution for the offence of producing drugs. Mr Green was arrested and issued with a formal Police caution, which is criminal conviction. She said that whilst under arrest, Mr Green had fully admitted the offence of permitting the production / attempted production on the premises of a controlled drug of Class B – Cannabis.

In her conclusion, she said that it is a disgraceful use of premises, the effects of which were wide spread. She strongly recommended that revocation of the licence in its entirety should be considered, and that she was in full support of the review submitted by Trading Standards on the grounds that the Licensing Objectives had been seriously undermined.

Councillor Bird sought clarification on whether the electricity used in the storeroom was from the shops own supply or whether it was by-passed from elsewhere. She was informed that it was from the shops own supply.

It was confirmed to Councillor Stevens that there was no other means of access to the storeroom other than via Marina News.

Sergeant Maynard, was present and read a statement provided by the Sergeant who took part in the raid which described his observations of the storeroom.

**LICENSING REVIEW SUB-COMMITTEE
24 JANUARY 2012**

In his summary, Mr Brown, Licensing Manager, advised that licensed sex shops pay heavily for a licence and that there is a widespread problem with fraudulent businesses which are not paying for a licence.

RESOLVED (unanimously) that, the licence be revoked subject to the following reason:

The Committee have listened very carefully to the evidence before it. It believes that the licensing objectives of the Prevention of Crime and Disorder and Protection of Children from Harm have been seriously undermined. In fact there has been multiple disregard of the licensing objectives. The Committee have had regard to the guidance issued by the Secretary of State in particular Sections 11.26 and 11.27.

(The Chair declared the meeting closed at 11.30am)