

DECISION RECORD

Licensing Act 2003 (all section references in this record are references to the Act)

LICENSING AUTHORITY FOR BRISTOL

**LICENSING (HEARINGS) SUB COMMITTEE MEETING
HELD ON 23 January 2014**

AGENDA TITLE

Conduct of a hearing into an application for the REVIEW of a licence made by: The Responsible Authority for Weights and Measures

in respect of:

Healthy Foods, 443 Gloucester Road, Horfield, Bristol BS7 8TZ

MEMBERS PRESENT:

1. Councillor Abraham (Chair)
2. Councillor Threlfall
3. Councillor Payne

OFFICERS PRESENT

Lynne Harvey, Legal Advisor
Carl Knights, Licensing Policy Adviser
Allison Taylor, Democratic Services
Abigail Holman, Licensing Officer

REPRESENTATIONS RECEIVED FROM:

Applicants, responsible authorities and interested parties

Applicant for review

**PARTIES &
REPRESENTATIVE (IF ANY)
in attendance**

Martyn Nicklin – Weights and Measures Authority

Licensee

Not in attendance

RECORD OF HEARING:

The authority made a contemporaneous hand written (long hand) record of the hearing. Any party wishing to receive a typed transcript should contact Councillor Support Officer (Democratic Services, City Hall, College Green, Bristol) for information regarding the arrangements for transcribing and any charge levied where the authority produces the same. Set out below is a summary of the reasons for the decision, in the event of an appeal the Licensing Authority reserves the right to elaborate on the reasons.

DECISION MADE ON REVIEW:

1. That, having regard to the application and the relevant representations, the following step is appropriate in accordance with section 52(4)(e) of the Act:-

To Revoke the Licence

2. That subject to the right of appeal conferred under the Act, this determination shall have effect at the end of the period of 21 days beginning with the date of this notification.

3. That in accordance with Section 52(10) of the Act a duly authorised officer be directed to give Notice of determination to:

- (a) The Holder of the Licence
- (b) The Applicant
- (c) Any person who made a relevant representation
- (d) The Chief Officer of Police

REASONS FOR DECISION

The following paragraphs summarise the sub-committee's reasons for Decision.

The sub-committee carefully considered the application and the representations together with the information provided for the Hearing and that received during it. The sub-committee had regard to the Secretary of State's guidance to Licensing Authorities

and the Authorities own statement of licensing policy.

The Committee's decision was particularly influenced by the consideration of the promotion of the licensing objectives concerning the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm.

The Committee first noted the history of adjournments relating to this review as follows:-

3 October 2013 – A Committee met to consider and determine this review instigated by the Weights and Measures Authority and which was currently the subject of on-going criminal investigations. During the course of the hearing it came to light that a Relevant Person was known to a member and had received communications in respect of issues in the Church Road area which could predispose that member when determining the review application. It was therefore agreed that the meeting be adjourned to 23 October 2013 and be reconvened with a new membership that did not include this member.

23 October 2013 – A hearing began afresh with a whole new Committee, and heard a request to adjourn from the barrister representing the premises Licence Holder so that the licence holder be given the opportunity to provide the information regarding the ownership of the businesses and leases and that matters might be resolved without the need for the review. It was agreed 2:1 to reconvene on 4 December 2013 with an instruction that details concerning the new ownership of the premises be made available to the Licensing Authority within 7 days.

4 December 2013 – The Committee noted that new lessees were present and two lessees had new legal representation. Some information was made available regarding 443, Gloucester Road but it fell short of the information sought by the Committee in order to determine the review. The parties in attendance were also unable to provide the most basic information relating to their lease. The legal representative was unable to obtain instruction from his clients. The Committee therefore decided to adjourn to 23 January 2014 and that full details on the sale of the business be provided within 14 days of the hearing.

On reconvening on 23 January 2014, the Committee heard that the Premises Licence Holder was not in attendance despite being served with notice to attend. He had also been in attendance on the last occasion so was fully aware of today's hearing but had not contacted the Licensing Authority; nor had he provided the information requested on the last occasion. The Committee therefore decided that due to the seriousness of the matters that gave rise to the application for a review, it was in the public interest to hold the hearing in the Licensee's absence as permitted by the regulations.

The Committee first noted that the licence was transferred into the current Premises Licence Holder's name on 3 December 2013 and the licence varied for him to become the DPS on 3 December 2013. The Licensing Policy Advisor reported that his office had received no information relating to the sale of the premises to the current Premises

Licence Holder.

The Committee moved into closed session where they heard from the Weights and Measures Officer regarding the matters surrounding the criminal investigations. They also had regard to the written documentation on this matter.

The Committee moved into deliberation. The Committee was satisfied that the grounds for review had been made out due to the serious nature of what had taken place and attached considerable weight to what they had heard from the Weights and Measures Authority.

The Committee were very disappointed that they had not been able to hear from the Premises Licence Holder so that he might rebut the reason for review or demonstrate that he had no connection with the current owner of the premises or provide information regarding conditions which might protect the public.

The Committee recognised that in reviews connected to crime, a serious approach should be taken and revocation may be considered even in the first instance. Where a review has been brought in connection with alleged criminal activities, the steps taken by a Licensing Authority can be used to punish a Licensee in order to act as a deterrent to others. The Committee had regard to the other options available to them when determining what steps to take but decided that in this instance the issues were so serious it was appropriate and proportionate to revoke the licence.



SIGNED:

Councillor Abraham