

25 May 2023

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PLEASE NOTE START TIME OF MEETING

Dear Councillor,

A meeting of **LIQUOR LICENSING PANEL** will be held in the **COUNCIL CHAMBER** at these offices on **MONDAY, 5TH JUNE, 2023 at 10.00 am** when your attendance is requested.

Yours sincerely,
KATHRYN HALL
Chief Executive

A G E N D A

Pages

1. To receive apologies for absence.
2. To receive Declarations of Interests from Members in respect of any matter on the Agenda.

The procedure the Licensing Panel will follow in considering the application is set out in the Licensing Act 2003, its attendant Regulations and was agreed by the Licensing Committee on 2nd February 2005. The Licensing Panel, in accordance with rule 14 of the Licensing Act 2003 (Hearings) Regulations 2005 decide to exclude the public from all or part of the hearing where the Licensing Panel considers that it is in the public interest to do so.

3. To confirm the Minutes of the previous meetings held on 19 December 2022, 10 February 2023 and 3 March 2023. **3 - 22**
4. Application to Review Premises License - Licensing Act 2003. **23 - 100**

Human Rights Act Implications

Licensing Act 2003

A licensing authority must carry out its function under the Licensing Act 2003 with a view of promoting the licensing objectives.

The Licensing objectives are:-

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

In carrying out its licensing functions a licensing authority must also have regard to:-

- (a) its licensing statement published under Section 5 of the Licensing Act 2003 (this may be viewed on the Mid Sussex District Council website);

and

- (b) any guidance issued by the Secretary of State under Section 182 of the Licensing Act (this may be viewed on the Department for Culture, Media and Sport website).

Members are asked to consider the human rights implications for both the licensee who has rights under Article 1 of the First Protocol, the Right to Property (which includes the licence):and the objectors who have rights under Article 8 to Respect for Private and Family Life, and Article 1 of the First Protocol, their right to enjoy peaceful use of their possessions.

To: **Members of Liquor Licensing Panel:** Councillors J Henwood, J Mockford, Berggreen, P Chapman, Cherry, M Cornish, J Dabell, L Farren, Kennedy, Kenny, J Knight, G Marsh, Miah, Platts and Wood

**Minutes of a meeting of Mid Sussex District Council Liquor Licensing Panel
held on Monday, 19th December, 2022
at 10.00 am**

Present: Councillors: N Webster (Chairman)
J Dabell
Anthea Lea

Officers in attendance: Paul Vickers, Solicitor to the Licensing Panel
Jon Bryant, Senior Licensing Officer
Alison Hammond, Democratic Services Officer

Also in attendance: Robin Langton, Applicant
Nick Semper, Applicant 's Agent
Amanda Daniels
John Daniels
Gesine Moss
Anita Batten
Sue Charlton
Angela Pope
Ellen Fisher, Democratic Services Officer
Lucinda Joyce, Senior Democratic Services Officer

The Chairman introduced the panel and officers to the applicants and Interested Parties.

LS.1 TO RECEIVE APOLOGIES FOR ABSENCE.

Apologies have been received from Cllr Mockford and Cllr Anthea Lea is substituting.

LS.2 TO RECEIVE DECLARATIONS OF INTERESTS FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.

None.

LS.3 TO CONFIRM MINUTES OF THE PREVIOUS MEETING OF THE LIQUOR LICENSING PANEL HELD ON 1 JULY 2022.

The minutes of the meeting held on 1 July 2022 were agreed as a correct record and were signed by the Chairman.

LS.4 APPLICATION FOR A NEW PREMISES LICENCE.

Introduction and outline of the report

Jon Bryant, Senior Licensing Officer introduced the report for the Panel to determine an application for a Premises Licence pursuant to Section 17 Licensing Act 2003 made by Mr Robin Langton, Managing Director of the Highweald Winery Wine Estate and noted that five members of the public who are also local residents, referred to as Interested Parties had made representations on the grounds of the Prevention of a Public Nuisance. The Panel were asked to determine the application in accordance with the Licensing Act 2003, MSDC Licensing Policy and

the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.

The Senior Licensing Officer advised that Highweald Wine Estate, off Deaks Lane, Ansty is set in approximately 100 acres with an onsite office/vineyard store building and winery. The application was to licence an area containing the Winery and the new shop/garden bar; the applicant intends that alcohol will be consumed in the shop/garden bar as tasting samples, as part of a planned tour of the vineyard and the provision of on and off sales. He highlighted that the tours do not constitute a licensable activity. The application seeks to supply alcohol, on and off the premises Monday to Sunday 11 am to 9pm, with the same opening hours. Due to issues advertising the application, an amendment and re-submission, the application was extended and concluded on 1 December 2022. The application was correctly advertised on site and in The Mid Sussex Times. 15 representations were received but not accepted as they did not address the licensing objectives; a further representation was also excluded for the same reason. Representations from five Interested Parties were relevant and all relate to the Prevention of a Public Nuisance; he confirmed that no representations have been received from the Responsible Authorities.

During the consultation period Mr Langton asked for additional information to be passed to the Interested Parties and offered to meet them: he confirmed there would be no piped or recorded music outside, they would not accept buses or coaches loud or raucous behaviour would not be accepted. Most clientele would be couples as they are a luxury brand and offer a high-end experience. The agent had confirmed to the Licensing Team that any music would be background music; the Officer noted that this would not be regulated entertainment. The high-end clientele would be low risk. To mitigate noise the applicant had planted some mature trees, and more would be planted along with some hedging, they offered two additional conditions which were listed in Appendix 10 and the email was in Appendix 2. The Panel were reminded that some information in the representations were not relevant to the applicant as they referred to: the operating hours and the certificate of lawful development, planning consents, highway matters, site access, the rural location of the site and potential light pollution. In determining the application, the Panel should only consider the relevant representations. A number of conditions have been agreed between the Police and the applicant, and the officer requested these are included along with the mandatory conditions if the Panel decide to approve the application.

The Senior Licensing Officer summarised the unresolved representations made by the Interested Parties all on the grounds of Preventing a Public Nuisance: Tim and Anita Batten, Mrs Batten has a medical condition that adversely affects her health and well-being which requires her to sleep in the afternoons/early evenings; she moved to the area as it was quiet. Mrs Daniels did not accept the mitigation measures put forward by the applicant.

The Senior Licensing Officer reiterated that parts of the representation by Mr Andrew Moss, Amanda Daniels and Angela Pope did not relate to the Licensing Objectives and the Panel should disregard them.

Mr Andrew Moss was concerned with the times for recycling, extended time for the of sale alcohol, and noise from the site from visitors / staff would travel to local properties. He would be represented by Mrs Gesine Moss. The officer noted that the performance of live and recorded music is not a regulated activity if they have a licence and there are fewer than 500 people in attendance. Any matters relating to

noise from music should be directed to the Environmental Protection Team (EPT) to investigate.

Sue Charlton and John Barrett live opposite the entrance to the vineyard and stated they would be affected by noise travelling to them from the site; they advised they already hear music from other local places, Whiteman's Green, Ansty and Hickstead.

Amanda Daniels was concerned that people drinking in the garden bar and the hiring of the garden bar with background music would cause excessive noise in a quiet area. Her husband has a medical condition which means he sleeps during the day. She noted they can hear the winery's generator and noise from Cuckfield, Ansty Social Club and Hickstead. She expressed particular concern over the time by which visitors would have to leave the site and the late time of operation as the area is quieter in the evening.

Angela Pope was concerned that in a rural location with little background noise, any noise from the garden bar (which has a roof terrace) would carry further. She had concerns with bottling and opening times. She thought notices to ask people to be considerate of local residents would not work.

The Panel were asked to determine the application in accordance with Section 18 of the Licensing Act 2003 (LA03), MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations. Relevant representations must address one of the four Licensing Objectives: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. He highlighted several paragraphs of the Section 182 guidance: representations are relevant if they are about the likely effect of the grant of the application on the promotion of the licensing objectives; representations can support or be in objection to the application and a representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. The Local Authority had to decide if representations were frivolous or vexatious. He reiterated that the Panel was not there to review the current licence and each application was determined on a case-by-case basis. The determination should be evidence based, justifiable as being appropriate to the licensing objectives and proportionate. The final decision made by the Committee could be subject to appeal in the Magistrates Court by any party to the proceedings, and any decision by the Committee should be evidence based.

He highlighted section 9.44 of the Home Office Guidance Issued Under Section 182 of the Licensing Act 2003: the licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination. The inclusion of the provision of recorded music in the application is an error as less than 500 people will be in attendance.

The Chairman highlighted that that consideration must be made of people's rights under the Human Rights Act 1998, the licensee has rights under the first protocol, and the objectors have rights under Articles 1 and 8. Some Interested Parties have protected characteristics, and these must be carefully considered under the Equality Act 2010.

Questions to the Senior Licensing Officer

Nick Semper, Applicant's Agent had no questions.

The Solicitor advised the Interested Parties of the procedure of the meeting, cross examination of the participants was not permissible and clarification of any points by the participants assists the panel in their determination of the application and any potential additional conditions.

Mrs Batten asked about the volume of non-amplified music. The Senior Licensing Officer reiterated that it was not relevant as the playing of recorded, live or amplified music is not a regulated activity if fewer than 500 people are present at the premises with a licence between 8am and 11pm. If unregulated music from a premises causes a statutory nuisance the Environmental Protection Team (EPT) should be contacted to investigate.

The Chairman confirmed any matters relating to unregulated music are not covered by the Liquor Licencing Panel and affected residents must make their concerns known to the correct department when it occurs. Applicants can put systems in place to record complaints and a contact person at the licenced premises be identified in order to receive complaints. The Senior Licensing Officer suggested a noise management plan could be in place to deal with noise issues and noted that the applicant had not yet addressed the attendees or the Panel.

Mrs Moss, representing Mr Andrew Moss queried why the licensed area was so large and not just for the shop/garden bar, why the Winery needed a licence and not the tasting room and enquired about Temporary Event Notices (TEN). The Senior Licensing Officer suggested the applicant would be better placed to answer her questions. However, he advised that a license enables the consumption of alcohol on and off the premises. Premises Licenses and TENs are different activities. If no premises licence is held a person can apply for up to 20 TENs a year for a location, totalling 26 days, a person can apply for 50 notices a year.

Mrs Pope was also unclear of the process and questioned the scope of the licence sought, queried the intentions of the applicant noting the visitor shop had a maximum of 20 people on the tasting tour/garden bar. However, the email from the applicant noted a maximum of 60 people outside. She enquired if providing a venue for corporate hospitality would increase footfall, was concerned that excessive noise travels easily in a quiet environment and any licence should have appropriate conditions. The Senior Licensing Officer advised the applicant would answer some of her concerns in their representation and the application for the grant of a premises licence for the consumption of alcohol both on and off premises.

Members' Questions to the Senior Licensing Officer

The Members had no questions for the Senior Licensing Officer.

Nick Semper, Licensing Consultant for the Applicant

Nick Semper, Licensing Consultant for the applicant advised the winery was founded in 2015. Previously it was a working farm and the winery, which has won several trophies for their quality wine is not as intrusive as a farm. Currently they market their products through a third party and the licence will enable them to sell direct to the public through tours and tastings. To provide on and off sales the winery needs a licence. He confirmed there would be some entertaining in the garden, a maximum of 60 people, 11am to 9pm daily; it would not be regulated entertainment and would be *de minimis* by nature. He thanked the Senior Licensing Officer for sorting the non relevant representations, advised the Interested Parties must demonstrate that the Licensing Objectives would be impacted, and each applicant looked at on a case by case basis.

He noted there had been no representations from the Responsible Authorities. He advised wine tours, tasting and consumption of wine are not licensable activities, and disputed that the sale of alcohol would cause a public nuisance, reiterating it would be for a maximum of 60 people. The recycling times had been amended to 9 am until 9pm, and there would be no regulated entertainment at the site. He disputed that the scale and style of events at other locations which Interested Parties alleged to be audible were the same. With regards to the noise from the generator, there had been a farm on the site for a long time and the winery operation is quieter than a normal farm. He did not believe the application would cause a disproportionate and unreasonable adverse impact to a person living and working in the area. He confirmed all references to regulated music have been removed, no food other than canapes would be served, and these activities are not licensable. Mr Langton had written to all the Interested Parties confirming the Highweald Winery is a luxury brand, did not want to cause a public nuisance, offered a high-end experience and expect their clientele to respect the same.

They had provided additional information to the Senior Licensing Officer and the Interested Parties: the premises are surrounded by trees; 10 extra mature trees have been planted with plans to plant 30 more mature trees and 200ms of hedging to minimise noise escape from the site. He noted two extra conditions regarding noise from the site on page 34 of the agenda pack: no noise vibration to emanate from the site and they would turn down the music immediately at the request of the Police or EPT. He confirmed they were happy to develop a Noise Management Plan (NMP) and the Panel had to balance the ambitions of the applicant against the concerns of the neighbours. He advised “there was no evidence of public nuisance, just fear and speculation if the application is approved and the Licensing Act provided the means to remedy through review and that can be requested by anyone”. The process should be evidence based and they have a quality operation that has not and will not impact adversely on anyone.

Mr Langton added he was happy to develop and implement a NMP and wanted to be a good neighbour.

Questions to Mr Langton

Mrs Daniels queried Mr Semper’s comment that the vineyards operation was *de minimis* and if their licence was approved would their activities be greater/same as *de minimis*. Mr Semper advised the activities were described as *de minimis* to show the small scope and effect. There would be limited hours, a tight operating schedule, with a maximum of 60 for wine tasting, and a maximum of 20 for the tours and they would not be licensable activities.

Mrs Daniels expressed concern with the away days and hiring of the garden bar advertised on their website. She was concerned they would add to the noise levels and asked how many they would expect at these corporate events. Mr Langton confirmed the garden bar takes a maximum of 20 people, as it is small and the deck between 40 and 50 people, they are not expecting to host large corporate events. Their main activities will be the vineyard tours and tastings. They want to educate the public on the growing and production of their products and hope they will also buy when visiting the vineyard. Their web site had been updated and he confirmed “they would only do activities that fit the remit of the application”.

Mrs Pope thanked them for a comprehensive representation and advised the Interested Parties would have liked sight of the applicant’s representation before the meeting. She requested a copy of his representation. She asked why the

licence did not just cover the garden bar, and with the doors closed and sound insulation their concerns might be alleviated to some degree. She asked what noise management strategies they would propose for people outside. Mr Semper advised the NMP would be produced by a noise expert, and it will detail control measures necessary to prevent noise nuisance at the nearest premises. He could not advise what these measures were until the plan was complete. With normal good management, if are people making a lot of noise they will be warned or asked to leave. Mr Langton reiterated that they would not accept big groups or buses, and they sell a high-end wine. The tours will be managed, if there is another tour directly after one in progress there could be 40 visitors on the site. To mitigate sound the doors are double glazed, they have planted 4m mature trees with more trees and 1.4m hedges around the building, at significant cost. The vineyard and winery are part of the tour, and the licensable area is large as the wine is sold from the winery.

The Chairman asked how long it would take for a NMP to be in place and who would be in control of the tours. Mr Langton advised he had been the Chief Operating Officer at Ridgeview, running a similar operation; at no time were there any issues with noisy people. If visitors are out of order, they will be asked to leave. Mr Semper added that they use generic NMP and bespoke plans take about one month.

The Chairman advised they expect a specific NMP if the application is approved.

Mrs Pope expressed concern that they had not thought of developing a NMP prior to the meeting following receipt of all the representations. She had read that trees and hedgerows don't mitigate the transference of noise and act as acoustic barriers, they only help visually. She asked if they would consider restricting the licence to use of garden bar area with doors closed, reduce the hours and days, currently open 363 days and indoors; she also enquired where the wine sales would take place.

Mr Langton said their "proposed application was not unreasonable; they are happy to do a NMP to address her concerns and are not willing to amend the application as suggested". He confirmed the wine sales would be a small operation distributed from the winery and that would require additional activities and deliveries.

The Chair confirmed the recycling times had been amended to recycling 9am until 9 pm, and the NMP would be the responsibility of the Designated Premises Supervisor (DPS) as a condition of licence if it is approved. He noted that any business on that site would have deliveries to and from the site, whether a farm or winery and there would be extra traffic. He noted that the highway network was not a relevant matter in the application.

The Solicitor confirmed highway matters were not relevant to the Licensable activity and the Licensing Objectives.

Mrs Daniels asked how the applicant would deal with the noise generated by vehicles loading / unloading. Mr Semper advised the winery currently produces 250,000 bottles per annum and there would only be a change if the winery expanded its production.

The Chairman advised the noise of trucks unloading and bottles were not a licensing consideration.

Mrs Batten thought the licensing issue was a public nuisance with regard to noise from trucks and people. The Chairman confirmed it was a balancing act when dealing with the rights of applicant and the rights of the residents, and those with protected characteristics.

The Solicitor noted when dealing with the issue of a public nuisance, it is the likely effect of the granting of the licence that must be considered. If there is no licence to use the garden bar, the winery could still sell wine by selling through a third party, noise from trucks is not affected by the licensable activity. Noise nuisance is a separate matter and would be investigated by the EPT. If noise relates to the grant of a premises license, then the licence can be reviewed by the panel. All concerns raised relate to public nuisance, if license is not granted by the panel, all points raised re trucks, bottle noise trucks and use of site will still happen as not licensable activities.

In response to a question from Mrs Moss the Senior Licensing officer confirmed the licence application was specific to Mr Langton.

Mrs Moss queried what would happen if the winery was sold. The Senior Licensing officer confirmed if the winery was sold, the owner could transfer the licence over or Mr Langton could surrender his licence and new license could be applied for.

The Chairman requested information on exit times from the premises and how long after closing would they anticipate visitors remaining at the vineyard. Mt Langton confirmed they closing time had been revised from 11 pm to 9pm; there would be no tours in the last hour, and all visitors should have left by 9pm.

Mrs Gesine Moss representative of Mr Andrew Moss, Interested Party

Mrs Moss advised they live one field away from the vineyard and noted concerns with the long hours of operation at the site and bottling, noting some issues had been addressed to a degree. Their other concerns were the expansion from tours 3 days a week, noise of people arriving / leaving, and the staff would have little control over visitors as they can be noisier when they have had alcohol. They also expressed concern that the future format may change, fear of the unknown, but did appreciate it is a high-end operation. They highlighted the medical condition of their daughter.

Mr Langton advised they had a long-term business plan and suggested having ongoing dialogue and neighbourhood meetings.

The Chairman noted that there are a number of high-end vineries in the local area, all in rural quiet areas, and all valid concerns and would be considered.

Mrs Sue Charlton, Interested Party

Mrs Charlton advised she lives opposite the entrance, has a small farm and is aware of farm noise. Her recently diagnosed medical condition requires lots of rest.

Mr Langton noted that the driveway needs work and suggested adding sleeping policemen to reduce speed / noise.

Angela Pope, Interested Party

Mrs Pope asked the Panel to delay their decision until the NMP had been received. She was aware of the balancing act of the rights of the applicant and the neighbours. The previous farming activities on the site had been reasonable and the applicants proposed operation could be for 363 days a year.

The Chairman confirmed the Panel could agree conditions for the licence, can add additional conditions and when deliberating can agree an outcome based on the submission of an approved NMP.

Anita Batten, Interested Party

Mrs Batten reiterated that she needs to rest / sleep in the afternoon, and they moved to the area as it is quiet. Whiteman's Green is one mile away and they still hear noise from there through the trees. She also enquired how the staff could control the noise of visitors.

The Chairman noted that noise does travel, and some background noise is not always heard as people don't register it.

Mrs Amanda Daniels, Interested Party

Mrs Daniels expressed concerned on how the applicant would control noise of visitors and suggested not all local vineyards have residents living close by. She queried whether sleeping policeman were permitted on a public bridleway. Noise would be a greater nuisance as the area is quieter in the evening. She requested that they scale back their operating times. The use of the site as a vineyard has significantly increased when compared to the use as a farm.

The Solicitor confirmed that any concern needs to be evidence based, but conditions can be added to prevent a potential problem arising. The panel can add conditions to those already proposed or refuse the application.

Mr John Daniels, Interested Party

Mr Daniels noted they live 1km away and highlighted his medical condition, and how the effect of noise from the vineyard will disturb him and create a public nuisance. He confirmed he uses the bridleway on a regular basis as part of his normal daily activities. The area is quiet and peaceful, and more noise will be intrusive to him.

A Member stated the Interested Parties are fearful of the unknown, the vineyard will still be there tomorrow, and the applicant wants to make a small change to permit the sale and tasting of wine on the site in limited numbers. They appreciated the various health issues of the local residents, and the likelihood of extra noise when tours take place. If visitors are noisy the staff will ask them to leave.

Mrs Pope confirmed there is fear of future operations at the site, and the prevailing wind brings the sound to them and proximity to the noise source is critical.

The Chairman confirmed all their concerns had been noted and would be considered during the Panel's deliberations.

Mr Langton, Applicant summed up

He thanked everyone for attending and advised they would continue to work with their neighbours and the authority.

The Solicitor advised that the Members would retire to deliberate and asked the other attendees to the meeting to remain in the Council Chamber. The Members left the Chamber at 12.28 pm.

The Members returned to the Chamber at 12.52 pm.

The Chairman thanked all the attendees for their representations, and he advised the Panel understood the residents' concerns. He advised the panel must abide by the licensing regulations, have taken account of the equalities act and protected characteristics, and the rights of the business owners to earn a living. He recommended good communications, possibly by a WhatsApp group between the winery staff and the local residents, noting residents can make representations to the Council if the need arises in the future. The decision of the Panel was to approve the application with the additional conditions and subject to receipt of an agreed Noise Management Plan with Mid Sussex District Council.

RESOLVED

The application for a premises licence was approved with the following conditions:

Proposed Conditions: Conditions agreed by the applicant with Police

1. The premises will operate an age verification policy set at a minimum of 25 years, whereby any person attempting to buy alcohol who appears to be under the specified age will be asked for photographic ID to prove their age. Signage advertising the "Challenge" policy will be displayed in prominent locations in the premises and shall include the point of sale and the area where the alcohol is displayed, as a minimum.

2. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically in regard age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs. Induction training must be completed prior to engaging in any sale of alcohol. Refresher training shall be conducted thereafter at intervals of no more than sixteen (16) weeks (this may be verbally delivered) All restricted sales training undertaken by staff members shall be fully documented and signed by the employee and a trustee member. All training records shall be made available upon request to an officer of a Responsibly Authority.

3. The premises shall at all times maintain and operate a sales refusals log and an incident log will be kept to record all refusals and incidents of crime or disorder. These shall be reviewed and signed by a trustee member at intervals of no more than four (4) weeks. Feedback shall be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises. These records shall be kept for a minimum of twenty-four (24) months and made available upon request to an officer of a Responsibly Authority.

4. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

a) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.

b) CCTV footage will be stored for a minimum of 31 days.

c)The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.

d)The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.

e) Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.

f) Any breakdown or system failure will be notified to the police immediately & remedied as soon as is practicable.

Conditions Proposed within the Applicants Operating Schedule

5.Customers will not be permitted to take open containers of alcohol from the Premises.

6.The number of persons allowed for on-site tastings or group tastings will be limited to a maximum of 20 persons.

7.Notices are displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.

8.Disposal of empty bottles into waste receptacles outside the premises will not be permitted to take place between the hours of 2100 hrs and 0900 hrs to minimise disturbance to nearby occupiers.

Conditions Additionally Proposed by the Applicant during the Consultation period

9.The Premises Licence Holder or DPS must immediately comply with any request to adjust noise levels/ frequency spectra made by an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or the Police

10.Noise or vibration shall not emanate from the premises so as to cause a nuisance.

11. Any licence is subject to the agreement of an appropriate Noise Management Plan with Mid Sussex District Council.

The meeting finished at 1.00 pm

Chairman

**Minutes of a meeting of Mid Sussex District Council Liquor Licensing Panel
held on Friday, 10th February, 2023
from 10.00 am**

Present: Councillors: J Knight (Chairman)
M Cornish
J Mockford

Officers in attendance: Paul Vickers, Solicitor to the Licensing Panel
Jon Bryant, Senior Licensing Officer
Lucy Corrie, Assistant Director Communities
Alison Hammond, Democratic Services Officer

Also in attendance: Stuart Beare, Joint Applicant
Sam Beare, Joint Applicant
Paul Thornton, Applicant 's Agent
Scott Castle, Applicant 's Sound Engineer
Jane Cooper, Senior Environmental Health Officer,
Environmental Protection
Oliver Benson, Environmental Health Protection Officer
Alexander Austin, Democratic Services Officer
Lucinda Joyce, Senior Democratic Services Officer

The Chairman introduced the panel and officers to the applicants and Interested Parties.

LS.1 TO RECEIVE APOLOGIES FOR ABSENCE.

None.

LS.2 TO RECEIVE DECLARATIONS OF INTERESTS FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.

None.

LS.3 TO CONFIRM THE MINUTES OF THE PREVIOUS MEETING HELD ON 14 NOVEMBER 2022.

The minutes of the meeting held on 14 November 2022 were agreed as a correct record and were electronically signed by the Chairman.

LS.4 APPLICATION TO VARY A PREMISES LICENCE - LICENSING ACT 2003.

Introduction and outline of the report

Jon Bryant, Senior Licensing Officer introduced the report for the Panel to determine an application to vary the current Premises Licence pursuant to Section 34 Licensing Act 2003 made by BA Beare and Sons, at The Pumpkin Farm and he noted that one Responsible Authority and one member of the public who is also a local resident, referred to as Interested Parties had made representations on the grounds of the

Prevention of a Public Nuisance. The variation sought to amend the name of the site, extend the times for the Performance of Live and Recorded Music, extend the times for the sale by retail of alcohol and to add the licensable activity of the Performance of a Play.

The Panel were asked to determine the application in accordance with the Licensing Act 2003, MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.

The Senior Licensing Officer advised that the Pumpkin Farm, formerly known as the Maize Maze, had been licensed since 29 March 2003, however this is a separate location. He summarised the conditions on the licence to restrict times for live music, 20 days between 1st June and 30 September but the licensee had a difference opinion. He highlighted that the application would change the name to The Pumpkin Farm and the timings of the requested Licensable Activities.

In response to a question from the Chairman he confirmed the applicant now wished to have a licence for plays all year round. He noted the additional documents that had been received from the applicant and circulated to the panel and Interested Parties; and the remail received from Mr Tilbury who was unable to attend. The report included amendments to the current conditions as agreed with the Police and mandatory conditions; the application had been correctly advertised on the site and in the press. He summarised the representations made by the Environmental Health Protection Team (EPT), Responsible Authority and Mr Tilbury on the grounds of Prevent of Public Nuisance through noise at the site, listed in Appendices 4 and 5. He reiterated that parts of Mr Tilbury's representation related to planning matters and were not relevant, The Pumkin Farm was not a working farm and Mr Tilbury had listed details of their Christmas activities.

The Panel were asked to determine the application in accordance with Section 34 of the Licensing Act 2003 (LA03), MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations. Relevant representations must address one of the four Licensing Objectives: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. He highlighted several paragraphs of the Section 182 guidance: representations are relevant if they are about the likely effect of the grant of the application on the promotion of the licensing objectives; representations can support or be in objection to the application and a representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. The Local Authority had to decide if representations were frivolous or vexatious. Each Responsible Authority are experts in their field and may be Licensing Authorities main source of advice; Responsible Authorities can make representations if there is evidence to support them. He reiterated that the Panel should consider each application on a case-by-case basis. The determination should be evidence based, justifiable as being appropriate to the licensing objectives and proportionate. The final decision made by the Committee could be subject to appeal in the Magistrates Court by any party to the proceedings, and any decision by the Committee should be evidence based.

Questions to the Senior Licensing Officer

There were no questions for the Senior Licensing Officer.

Paul Thornton, Licensing Consultant for the Applicant

He started by querying whether the 70 days applied for was up for consideration; they had requested extended hours for 1 September to 31 December, and not for 70 days. They had discussed the application with the EPT, but no agreement had been reached.

With regard to the blanket opening times on the application for Licensable Activities, Paul Vickers, Solicitor to the Licensing Panel confirmed any conditions can be amended accordingly, and the wording on the current license lacks clarity. He advised that the Panel Members needed clarity on what was being sought by the application and clarity can be given as part of their decision. The Senior Licensing Officer confirmed 122 days were being requested, which included the 20 Summer days already permitted.

The Licensing Consultant confirmed the applicants wished to vary the existing premises licence, regularise the timings of licence and change it to a newer business model. Most activities occur in the autumn and winter, pumpkin picking and they wanted to give an enhanced experience, there would be low key entertainment similar to busking with a maximum of 300 visitors and a refreshment hut selling alcohol. These facilities would be ancillary for the site; the dwell times of people picking pumpkins is a maximum of 90 minutes.

He summarised the history of the farm which had been bought by the family in 1938, in 1971 it opened to public for pick your own fruit and vegetables - June to October for 12 hours a day, in 1998 maize maze with refreshments opened and ran until 2017. In 2018 pumpkin picking commenced with evening sessions in 2020 due to the pandemic and to permit social distancing. The farm also hosts Shocktober Fest Scream Park, a unique experience in the UK and 1 of only 10 worldwide. In 2020 an Outdoor Drive-In cinema which continues today. The farm owners have recently travelled to the USA to talk about their business model, and UK farmers also visit to as fact-finding missions. The family has been on the site for 86 years, they are an honest, trustworthy, and successful business.

He highlighted the Noise Management Plan (NMP) by Mr Scott Castle, and the Code of Practice which has been accepted by operators and regulators and is used at concerts. He reiterated that it is guidance and not the law, the table is in their NMP and is acceptable if there are no more than 12 events a year; this is the basis of the EPT's objection. A business can depart from the guidance if evidence is provided and explained, he referenced paragraph 1 (for large scale music events with high powered amplification in stadia, open air sites, and lightweight buildings) and paragraph 3 of the guidance. He noted that the purpose of the code is to give guidance to minimise the disturbance. He disputed that the EPT had taken into account the type or size of events Mr Beare and Sons would host. He requested the panel take a common-sense approach of their NMP, which detailed the training of staff, pre-event testing, testing during the event, using recording and monitoring equipment, which would be freely accessible to the EPT officers. He confirmed the output would be adjusted if a complaint was to be received via their complaints system which had a complaint template. They would also host a post-event feedback meeting with the EPT.

He noted that the Licensing Authority and Mr Beare and Sons responsibility to promote the Licensing Objectives and Police and EPT had to regulate it and provide advice. Little credit was given to their tailored NMP, the complaint by the EPT has a generic explanation and does not relate to their site, and there have been no substantiated complaints for site for the past last 10 years. He referenced the additional information sent to the Licensing Team, which advises how the NMP

complies with the Noise Council's Code of Practice as referred to by the EPT. He reiterated that any comments made by Mr Tilbury on planning matters were irrelevant, and he has not made any representations on behalf of anybody else. Mr Tilbury bought a barn on the farm and Mr Stuart Beare's mother, and his son are neighbours; the presentation is inaccurate as no alcohol this served after hours, the site closes at 22:00 and the existing license conditions have not been breached regarding the number of events. No dates were given for the installation of the recording equipment so it cannot be verified; he asked for the reference to complaints to be ignored. The portable toilets are used for the pumpkin picking and are not part of premises licence. The pick your own business which operates across 120 acres was operational when Mr Tilbury bought his barn. He confirmed that Mr Tilbury has not engaged with the applicants regarding any complaints; Mr Stuart Beare had contacted him but had not received a reply.

The Chairman reminded the applicant's agent to keep his comments to licensing activities.

In summing up Mr Thornton confirmed a floodlight had been left on overnight on one occasion by mistake, it was a working farm so there could be mud on the road. The panel should determine the application to vary the current license. They could modify, add or delete conditions, limit the number of events, and requested the condition relating to the NMP be approved by the EPT be removed. He thought this condition would permit an officer to block an event if they don't agree with a NMP sent by operator, and no appeal would be possible. Then Licensing Authority can refer an operator to their NMP, which should be done at the investigation stage. He thought this was unfair and against natural justice. Mr Stuart Beare is an experienced, respected businessmen with a successful business. The business must keep pace in a changing world, and they are a credit to Mid Sussex as a business, tourist site and an employer.

The Solicitor to the Panel corrected Mr Thornton and clarified that Section 4 subsection 1 of the Licensing Act states that it is the duty of the Licensing Authority to promote to Licensing Objectives and the EPT is part of the Licensing Authority.

Mr Thornton observed that a good EPT Officer will talk to an operator to check they know their responsibilities if they think their NMP is unprofessional or deficient. He expressed concern that Mr Beare and Sons could be held hostage because a Council Officer does not like their NMP. He outlined the roles of the operators, and the Licensing Authority, stating the NMP is comprehensive, has in-built monitoring and checking and permits reviews of noise levels.

Questions to the Applicant

There were no questions from the Senior Licensing Officer.

The EPT Officer expressed concern of the Agent's view (that the Agent thought her department were holding the applicants' hostage), they are fully aware of the guidance and had tried to negotiate on the number of days of operation and noise levels; no straight answer had been received. In principle with a higher the number of days of operation they would need to be quieter each day, the NMP does not take this into account.

In response to Member's questions Mr Sam Bear confirmed the pumpkin picking is a family event and ends at 22:00 and the car park is usually clear by 22:15; and they grow over 1,000,000 pumpkins each year. Mr Stuart Beare advised Mr Tilbury has been a good neighbour, they have not aggravated him, there are some boundary

disputes that they are trying to resolve, and they are on good terms with Mrs Tilbury. Mr Castle noted the entertainment would be a guitarist and a singer from 18 :00 to 22:00 with sets every 15 minutes, it would be low key, and they could reduce sound levels if required, they want to be good neighbours.

In response to the Chairman's concern regarding possible heavy amplification in the future should the application be approved, Mr Stuart Beare stated it was not in their future plans and conditions could be added, they are not in the music business.

Mr Thornton advised is a heavy rock band was to play on the site, the operators would first look at mitigation measures to reduce the impact.

The Chairman advised as a responsible Council Mid Sussex must consider prevention.

Mr Stuart Beare advised they were not trying to hold a five-day event akin to Glastonbury and Mr Castle noted that the licensing regime and statutory regime were two different principles.

Jane Cooper, Responsible Authority:

The Officer stated the EHP object as they believe to allow the proposed changes will result in a public nuisance and she believed the Licensing Objectives would not be upheld, she noted a dispute on the number of days activities are currently permitted. She expressed concern for occasional low-key events and referred to the operator's website for tickets to pumpkin nights. She believed the application would result in intensification of the site, with more than 500 people a day. The monitoring last year following a complaint regarding loud music in October was referenced, the music was clearly audible in a home that the lyrics could identified, and it was deemed intrusive. The Council wants to support business but not at expense of the public. The application sought to increase the number of days and the hours, there must be agreement between the applicant and the EPT. If there is an increase in the number of days, the music must be quieter, and she confirmed no agreement had been reached.

The EPT use the same guidance, which has recommendations for up to 12 days a year, she advised there is no guidance for more than 12 days and this demonstrates it would be intrusive. For more than 12 days the event should be, held indoors. The applicant wants to hold the events in a field close to houses; she didn't believe they could control the music to prevent a public nuisance. The way forward was to reduce the number of days of live music so a realistic noise level can be set; the applicant needs to demonstrate how they can achieve the noise levels and it should be included on the licence. The approving the application will create a public nuisance and EPT object to application.

Questions to Responsible Authority

There were no questions from the Senior Licensing Officer.

Mr Thornton asked for the results of the investigation regarding the loud music and what action was taken. The EPT Officer confirmed a complaint was received, the EPT installed recording equipment and the Applicant's Agent was aware that the only action taken was a discussion with the operator. Mr Thornton reiterated that he did not believe the complaint had been substantiated against the Pumpkin Farm.

In response to further questions from the Agent the EPT Officer confirmed only one representation had been received from local residents, and the EPT wanted to agree

a noise level that was achievable. She confirmed Mr Tilbury had signed a witness statement confirming the noise had come from the field.

Mr Castle stated the Noise Management code is there to make making events work, he accepted that the code was dated, and bespoke values are required for each site. They could measure values over several days to identify the background levels.

In response to the Chairmans' question concerning other residential properties close to the farm, the EPT Officer advised the village was approximately 500 – 600ms away, low frequency sounds travel easily, and a low beat can be evident inside a property.

The Chairman asked the EPT Officer what would be acceptable. She advised if the applicant gave the number of days they could then suggest a level; and all suggestions had been rejected by The Pumpkin Farm. The Chairman then asked if the applicants thought they could reach agreement, Mr Stuart Beare advised he thought they could, but they would be reliant on Mr Castle for advice on what was achievable. The last suggestion was not achievable, as the noise level was below ambient traffic noise. The EPT Officer noted the impact on local residents. Mr Stuart Beare advised Mr Tilbury bought a barn in the middle of an existing farm.

The Chairman confirmed the Council supports local business, and the Environmental Protection Team and applicants need to try and come to an agreement before the Committee can reach a decision.

The agent for the applicant suggested they take an adjournment for 20 minutes to see if they could reach agreement with the Environmental Protection Team; the committee agreed.

The Environmental Protection Team and applicants left the chamber at 11.45, and they all returned to the chamber at 12.19.

Mr Stuart Beare confirmed no agreement had been reached and requested an adjournment, so they could continue their discussions. A key factor was determining the background level of noise and as the Environmental Protection Team want to set a maximum level above the background noise level; they will conduct a test with their system, then the Environmental Protection Team will know what is achievable.

All parties agreed to reconvene on Friday 3 March to continue the consideration of the application. The Senior Licensing Officer confirmed the applicant will notify the Liquor Licensing Panel if an agreement has been reached before the next meeting.

The meeting was adjourned at 12.27,
and the Panel will reconvene at 10.00 am on Friday 3 March 2023.

The meeting finished at 12.27 pm

Chairman

**Minutes of a meeting of Mid Sussex District Council Liquor Licensing Panel
held on Friday, 3rd March, 2023
from 10.00 am**

Present: Councillors: J Knight (Chairman)
M Cornish
J Mockford

Officers in attendance: Paul Vickers, Solicitor to the Licensing Panel
Jon Bryant, Senior Licensing Officer
Lucy Corrie, Assistant Director Communities
Ellen Fisher, Democratic Services Officer

Also in attendance: Stuart Beare, Joint Applicant
Sam Beare, Joint Applicant
Paul Thornton, Applicant 's Agent
Jane Cooper Environmental Health Officer,
Environmental Protection
Oliver Benson, Environmental Health Protection Officer
Alexander Austin, Democratic Services Officer
Lucinda Joyce, Senior Democratic Services Officer

LS.1 TO RECEIVE APOLOGIES FOR ABSENCE.

Apologies were received from Scott Castle, the Applicant 's Sound Engineer.

LS.2 TO RECEIVE DECLARATIONS OF INTERESTS FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.

None.

LS.3 TO CONFIRM THE MINUTES OF THE PREVIOUS MEETING HELD ON 10 FEBRUARY 2023.

The minutes are a continuation of the minutes of the meeting held on 10 February 2023 and both sets will be signed off by the Committee at a future date.

LS.4 APPLICATION TO VARY A PREMISES LICENCE - LICENSING ACT 2003.

The Chairman welcomed the Panel, officers and applicants to the meeting, advising it was a continuation of the adjourned meeting held on Friday 10 February. The Chairman invited Jon Bryant, Senior Licensing Officer to provide an update on the application and any amendments since the previous meeting. The Senior Licensing Officer advised that following the adjournment of the meeting from 10 February 2023, the Environmental Protection Team have met with the applicants and agreed conditions to enable them to withdraw their representation before the Panel. He noted the agreed and revised conditions were set out at Appendix 6 of the report as agreed with the Police and Environmental Protection Team. He advised the Environmental Protection Team were present should the Panel have any further questions, however, confirmed the Panel no longer needed to consider their representation as this had been withdrawn. The only outstanding representation was

that of the interested party, Mr Tilbury. He had been notified via email of the adjournment of the Panel and the new time and date for the meeting to be reconvened, the Senior Licensing Officer confirmed Mr Tilbury had not responded and was not in attendance at this meeting. Therefore, Mr Tilbury's representations on the grounds of Prevention of Public Nuisance did remain outstanding to be considered by the Panel and these were summarised to the Panel during the first meeting on 10 February 2023 and as detailed in the report.

Questions to the Senior Licensing Officer

There were no questions to for the Senior Licensing Officer.

The Chairman asked the Environmental Protection Team to provide an update to the Panel following their meeting with the applicants on Friday 24 February 2023. Jane Cooper, Environmental Health Officer, advised that an agreement had been reached with the applicant, and under the revised conditions the premises may only be used for regulated entertainment on no more than a total of 49 days between 1st June and 31st December each year. The Licence Holder must notify the Environmental Protection Team of the exact number of days by the 1st April each year. She confirmed that under the Noise Management Plan (NMP), for events held on up to 30 days, one level of sound would be acceptable, and that for events held on between 30 and 50 days, a lower sound level would be required. A NMP must be approved each year before regulated entertainment can take place. The Chairman asked for clarity on this, and the Environmental Health Officer confirmed sound levels from music would be measured in decibels, relative to background sound levels at the site. The Chairman sought advice that this be documented as part of the conditions. Paul Vickers, Solicitor to the Licensing Panel advised this would not be necessary as the noise levels would be agreed and approved as part of the noise management plan. Jon Bryant, Senior Licensing Officer, agreed advising it makes it difficult to enforce and regulate through conditions, this is better dealt with through the noise management plan rather than an actual condition.

Questions for the Environmental Protection Team

There were no further questions for the Environmental Protection Team.

Paul Thornton, Licensing Consultant for the Applicant

Paul Thornton on behalf of his clients thanked the Panel for agreeing to adjourn the meeting. He emphasised his clients' gratitude for their productive meeting with the Environmental Health Team and the team's decision to withdraw their representations as a result of that meeting and agreeing the revised conditions. He confirmed his clients had agreed the amended conditions and were working with the Environmental Protection Team to produce a NMP and this would be signed off the week commencing 6th March 2023.

The Licensing Consultant advised the only outstanding matter was the representation from Mr Tilbury. In summary, Mr Tilbury had been in contact with Mr Beare following the meeting on 10th February and they had subsequently had a very productive and informative meeting, discussions were ongoing. The Licensing Consultant advised the Panel that Mr Tilbury's representation was factually lacking, and no evidence had been supplied or complaints registered with Environmental Health produced to support it, however, legally the Panel had a duty to consider it. In conclusion, his clients had great expertise in running entertainment events and the measures of the proposed application, amended NMP and new conditions would meet the necessary

licensing criteria and the satisfaction of all regulatory bodies and therefore he asks the Panel to grant the application safe in this knowledge. He thanked the Panel for their time.

Questions for the Applicant

In response to a Member question, Mr Beare confirmed under the agreed and revised conditions 1st September to 31 December had been amended to 1st June to 31st December to include both the summer season and provision for Christmas entertainment. He explained the amended condition provides more flexibility rather than having to apply for a licence each time. Another Member sort clarification as to whether there were plans to hold weeklong activities or longer. Mr Beare confirmed the only weeklong activity currently running was the Pumpkin Farm to coincide with October half term. The Chairman asked what the process would be if a plan for a two-week activity was submitted. The Environmental Health Officer advised they would work with consultants to achieve a suitable outcome. Oliver Benson, Environmental Health Protection Officer, advised the more events that were to take place, the lower the noise levels would be required as part of the conditions.

As there were no further questions the Chairman advised the public participants that the Panel would retire to deliberate and decide. The public meeting finished at 10.15am and the Panel left the Council Chamber. The Panel returned at 10.20am.

RESOLVED

The application to vary a premises licence was approved subject to the following agreed and revised conditions as set out at Appendix 6 of the report and that under the amended conditions agreed by the Environmental Protection Team it reads as follows;

‘No licensable activities of live and recorded music are permitted outside the maximum of 49 days between 1st June and 31st December.’

The Solicitor to the Licensing Panel advised the applicants the decision would be confirmed to them in writing. The Chairman commended the officers and applicants for working together to reach a positive resolution and wished the applicants success.

The meeting finished at 10.21 am

Chairman

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APPLICATION TO REVIEW PREMISES LICENCE – LICENSING ACT 2003

REPORT OF: Lucy Corrie, Assistant Director - Communities
Contact Officer: Jon Bryant, Senior Licensing Officer
Email: jon.bryant@midsussex.gov.uk Tel: 01444 477428
Wards Affected: Burgess Hill
Key Decision: No
Report To: Liquor Licensing Panel

Purpose of Report

- 1 To provide information to enable the Panel to determine an application to review the Premises Licence at Arya Food and Wine in Burgess Hill submitted by West Sussex Trading Standards.

Summary

- 2 An application, attached at Appendix 1, pursuant to Section 51 Licensing Act 2003, has been made by West Sussex Trading Standards for the review of a Premises Licence, namely Arya Food and Wine, 12 Station Road, Burgess Hill, RH15 9DQ. The grounds for the review relate to the licensing objectives of the Prevention of Crime and Disorder and the Protection of Children from Harm.
 - 3 The application cites the sale of alcohol to a child during a test purchase operation conducted by Trading Standards on the 8th February 2023. Two further Responsible Authorities, Sussex Police and WSCC Public Health, have submitted representations in support of the review application.
 - 4 The Panel must determine this matter on the evidence presented to it during the hearing having due regard to the Licensing Act 2003, MSDC Licensing Policy, and the Home Office Guidance issued under Section 182 Licensing Act 2003.
-

Background

- 5 The premises concerned is at 12 Station Road, Burgess Hill, RH15 9DQ and is known as Arya Food and Wine. It has been licensed for the sale of alcohol for consumption off the premises since April 2010. The Premises Licence was transferred to the current premises licence holder, Mr Maheshkumar Chaudhari on the 8th June 2015. Mr Chaudhari is also the Designated Premises Supervisor.
- 6 The current Premises Licence is attached at Appendix 2. The premises is licensed for the following licensable activities:

Licensable Activity	Timings
Sale by retail of alcohol	Monday to Saturday 10:00 – 22:30
	Sunday 12:00 - 21:00

- 7 The opening hours of the premises are:
Monday to Saturday 10:00 - 22:30
Sunday 12:00 - 21:00
- 8 The premises operates as a convenience store and is located in Burgess Hill Town Centre near to the Railway Station. Photos of the store are attached at Appendix 3.

9 There are a number of conditions currently attached to the licence in addition to the mandatory licence conditions. These are:

Conditions consistent with the operating schedule

Proof of Age and Challenge 18 years /21 years /25 years

- All cashiers/staff will be trained to require evidence of age from any person seeking to buy alcohol and appearing to the cashier to be under the age of 21. The evidence shall be photographic, such as passport or photographic driving licence or PASS (National Proof of Age Standards Scheme) approved documentation.

CCTV

- A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.
- The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.
- Notices informing customers of the operation of the system shall be prominently displayed.
- The system will incorporate a recording facility and any recording shall be retained and stored in a suitable and secure manner for a minimum of 31 days and shall be made available, subject to compliance with Data Protection legislation, to the police for inspection on request.
- If the premises are using a video recording system, the cassette tape shall be used on no more than 12 occasions.

10 West Sussex Trading Standards have applied for a review of the premises licence based on the sale of alcohol to a child that took place during a test purchasing operation that they conducted on the 8th February 2023.

11 Trading Standards cite that they previously received information of underage sales at the premises; they subsequently conducted a visit to the store in September 2022 when advice was given to Mr Chaudhari regarding the sale of age restricted products and provided further advice to ensure staff were correctly trained. A copy of this advice was provided to Mr Chaudhari. On the 8th February 2023 staff at the store sold alcohol to a child during a test purchasing operation.

12 Trading Standards contend that there is a failure of the management to promote the licensing objectives and they consider that a review of the premises licence is necessary to limit further criminal activity by the licence holder and to act as a deterrent against such illegal conduct.

13 Full details of the Trading Standards investigation are attached to the report at Appendix 4.

14 Trading Standards submit that the licence holder has failed in their responsibilities to protect children from harm and request that consideration is given to suspending the licence for a period of 3 months.

15 The review application was correctly advertised at the site between the 13th April 2023 and the 10th May 2023.

16 Sussex Police have submitted representations in support of the application to review the premises licence on the grounds of the Prevention of Crime and Disorder and the Protection of Children from Harm. These are attached at Appendix 5. In their representation they state that they are particularly concerned that in this case alcohol was sold to a child during a test purchase exercise. They note that prior to the test purchase advice was given to the Management of the premises by Trading Standards and that this advice revolved around underage sales of alcohol and the sale of other

age restricted products. They also recommend to the Committee that they consider a suspension period of 3 months is appropriate in this case.

In addition to a suspension of the premises licence, Sussex Police invite the Committee to update the current premises licence conditions by replacing all the existing conditions at Annex 2 with modern conditions. A schedule of these conditions is attached at Appendix 6.

- 17 WSCC Public Health have submitted representations in support of the application on the grounds of the Prevention of Crime and Disorder and the Protection of Children from Harm. These are attached in full at Appendix 7. In their representation they state that sale of alcohol to children is of extreme concern, considering the strong evidence demonstrating the harms caused by alcohol to children and young people. They highlight that the premises licence holder had recently received both verbal and written advice about the sale of age restricted products, including advice on staff training. The subsequent sale of alcohol to a person under the age of 18, as part of a Trading Standards 'test purchase' operation, indicates that this advice had not been acted upon and suggests a disregard for the law. They state that they are disappointed to learn about the sale of alcohol to a child and endorse the recommendations made in the review application by Trading Standards. They further state that given the harm caused to children and young people by alcohol in West Sussex and high rate of alcohol harm in young people in Mid Sussex District, it is especially disappointing to note that staff at Arya Food & Wine sold alcohol to a child. Whilst the licensee confirms that a Challenge 25 policy is in place, this is not being adhered and suggests a lack of effective staff training. In Mid Sussex alcohol-specific hospital admissions among under 18s have shown an increase since 2016/17 and the comparable rate for the district is 35.2 admissions per 100,000 under 18s which is also above the rate for England.

They are supportive of the recommendations of Trading Standards and would also invite the Committee to consider additional conditions being attached to the current licence. These are outlined in Appendix 6.

Legal Context

- 18 The review has been applied for under Section 51(1) of the Licensing Act 2003.
- 19 Section 52 deals with the determination of the review.
- (1) This section applies where—
 - (a) the relevant licensing authority receives an application made in accordance with section 51,
 - (b) the applicant has complied with any requirement imposed on him under subsection (3)(a) or (d) of that section, and
 - (c) the authority has complied with any requirement imposed on it under subsection (3)(b) or (d) of that section.
 - (2) Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
 - (3) The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.
 - (4) The steps are—
 - (a) to modify the conditions of the licence;

- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

(5) Subsection (3) is subject to sections 19 to 21 (requirement to include certain conditions in premises licences).

(6) Where the authority takes a step mentioned in subsection (4)(a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

20 Licensing Objectives

The Licensing Act 2003 requires representations to address the four licensing Objectives which are:

1. Prevention of crime and disorder
2. Promotion of public safety
3. Prevention of public nuisance
4. Protection of children from harm

21 Guidance Issued Under Section 182 of the Licensing Act 2003

11.9

Responsible authorities and other persons may make representations in respect of an application to review a premises licence or club premises certificate. They must be relevant (i.e., relate to one or more of the licensing objectives) and, in the case of other persons, must not be frivolous or vexatious. Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.

11.10

Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

11.19

Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20

In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.27

There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

.....
for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
.....

11.28

It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Other Options Considered

- 22 In order to lawfully provide licensable activities as applied for, they must be conducted under the authority of a Premises Licence.

Financial Implications

- 23 The final decision made by the Panel in this matter is subject to appeal in the Magistrates' Court by any party to the proceedings.

Other Material Implications

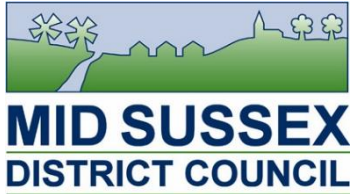
- 24 Section 136 Licensing Act 2003 – A person commits an offence if he carries on or attempts to carry on a licensable activity from any premises otherwise than under and in accordance with an authorisation or he knowingly allows a licensable activity to be so carried on.
- 25 A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine or both.

Sustainability Implications

- 26 None

Background Papers

- Appendix 1 – Application for review
Appendix 2 – Current Premises Licence
Appendix 3 – Site Photos
Appendix 4 – Papers relating to Trading Standards Investigation
Appendix 5 – Sussex Police Representation
Appendix 6 – Sussex Police and WSCC Public Health requested conditions
Appendix 7 – WSCC Public Health Representation
Appendix 8 – Hearing Procedure



LICENSING AUTHORITY

Mid Sussex District Council, Oaklands, Oaklands Road, Haywards Heath RH16 1SS

Application for the review of a Premises Licence or Club Premises Certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form, please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I Peter Aston, Trading Standards Manager, West Sussex Trading Standards apply for the review of a Premises Licence under Section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description

Chaudhari Wine Ltd T/A Arya Food & Wine
12 Station Road

Post town Burgess Hill

Post code (if known) RH15 9DQ

Name of Premises Licence holder or Club holding Club Premises Certificate

Maheshkumar Sardarbhair Chaudhari

Number of Premises Licence or Club Premises Certificate (if known)

14/01401/LAPER

Part 2 – Applicant details

I am

Please tick ✓ yes

- 1) An individual, body or business which is not a Responsible Authority (please read guidance note 1, and complete (A) or (B) below)
- 2) A Responsible Authority (please complete (C) below)

Yes

3) A member of the Club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss Ms Other title (For example, Rev)

Surname First names

Please tick ✓ yes

I am over 18 years old or over

Current postal address if different from premises address

Post town Postcode

Daytime contact telephone number

Email address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Mr Peter Aston Trading Standards Team Manager Trading Standards, West Sussex County Council 4th Floor, Parkside, Chart Way, Horsham, West Sussex, RH12 1XH
Telephone number: 0330 222 7661
E-mail: [REDACTED]

This application to review relates to the following licensing objective(s)

Please tick one or more boxes ✓

1) the prevention of crime and disorder	Yes
2) public safety	
3) the prevention of public nuisance	
4) the protection of children from harm	Yes

Please state the ground(s) for review (please read guidance note 2)

West Sussex County Council Trading Standards Service (the 'responsible authority') contends the following licensing objectives have been undermined by the carrying on of licensable activities at these premises:

- the prevention of crime and disorder
- the protection of children from harm

Full particulars in support of the application are to be found in the next section.

Please provide as much information as possible to support the application (please read guidance note 3)

In August 2022 intelligence was received by West Sussex Trading Standards alleging that an underage sale took place at Arya Food & Wine.

On 12th September 2022 Chaudhari Wine Ltd T/A Arya Food & Wine, 12 Station Road, Burgess Hill RH15 9DQ received an advice visit from West Sussex Trading Standards. Advice was given to the Director, Maheshkumar Chaudhari, about the Licensing Act 2003, regarding underage sales of alcohol, and the sale of other age restricted products. Maheshkumar Chaudhari was advised not to sell age restricted products to those under 18, by asking for driving licence or passports as identification.

The challenge 25 policy, to check any identification for those looking under 25, was explained to the business. The business was told not to sell age restricted products if identification to prove the buyer was over 18 could not be provided.

The business was advised to train staff to check for identification, should the buyer look under 25, and to record all refusals in a log. On 12th September 2022 the last refusal in the logbook was dated 09/09/2022, for a tobacco inhaling product, called an Elf Bar. The Chartered Trading Standards Institute provide free written guidance on Trading Standards legislation, giving business advice on how to ensure compliance. This is called the Business Companion and is available online, to read electronically or print off as leaflets. Printed Business companion guidance for selling Alcohol, Tobacco and Nicotine Inhaling products was provided to Maheshkumar Chaudhari, he was advised to use these to train his staff. No training log was produced during the visit, Maheshkumar Chaudhari stated that the logs were at his home address. Till prompts to ask for proof of age were coming up on the tills to remind staff to ask for identification before selling age restricted products.

A visit report form confirming the advice given was completed and handed to Maheshkumar Chaudhari to sign. Maheshkumar Chaudhari was provided with a copy of this report. On 14th September 2022 a letter was sent to Maheshkumar Chaudhari reiterating the advice he had received.

On 8th February 2023 alcohol was sold to a child by Mehulkumar Jesangbhai CHAUDHARY, an employee of Chaudhari Wine Ltd T/A Arya Food & Wine. This sale took place during a test purchase exercise, carried out under Section 154 of the Licencing Act 2003. Mehulkumar Jesangbhai CHAUDHARY stated he had been working at Arya Food and Wine for almost a year and had training on age restricted products every 2 months, where he was told to check for identification. No training records were provided by Mehulkumar Jesang, he stated they were kept at the manager's house. On 08/02/2023 the last refusal log entry was dated 19/01/2023. The till prompts were working at the time. This sale took place contrary to Section 146 (1) of the Licensing Act 2003, which carries a penalty of a fine, as well as being contrary to the terms of the premises alcohol licence.

Following a written interview under caution, Maheshkumarkumar Chaudhari stated that the seller had only been in post for 2 and half months, despite Mehulkumar Jesangbhai CHAUDHARY advising Laura Derby, Senior Trading Standards Officer, that he had worked at Arya Food and Wine for just under a year. Maheshkumar Chaudhari also stated that the seller thought the volunteer was 18. Maheshkumar Chaudhari confirmed that the seller had full training on age restricted policy, products, the age limits and what identification should be checked. Maheshkumar Chaudhari states that the seller was trained regarding the refusals log on 15/01/2023, a signed training log for Mehul CHAUDHARI has been provided to evidence this. It appears Mehulkumar Jesangbhai CHAUDHARY was first employed by Maheshkumar Chaudhari in 2021 and returned in 2023 when the training was re-done on 15/01/2023. No training records are shown for regular training between 21/10/2021 and 15/01/2023. The training records also show that there was no age restricted training provided until

15/01/2023.

Maheshkumar Chaudhari confirms he received the advice letter from Natasha Ali and subsequently retrained staff as well as monitoring the refusal log weekly. He confirms a Challenge 25 policy is in place and appears to understand it and has trained his staff on this. Maheshkumar Chaudhari has CCTV that he monitors every two weeks to make sure staff are checking ID. The store DPS is confirmed as Maheshkumar Chaudhari. Maheshkumar Chaudhari states that he has made sure staff have been retrained since 08/02/2023 and is checking refusal logs as well to ensure identification is requested without fail. He accepts the offence occurred and states it never happened in 9 years and is sorry.

Maheshkumar Chaudhari has provided the following supporting documentation:

- Premises Age verification policy, dated 27/01/2023
- Written Authorisation for the Sale of Alcohol, signed by 3 members of staff between 21/08/2020 and 15/01/2023
- Staff Training records for Mehul Chaudhari, sell of alcohol and age restricted products dated 15/01/2023 and again on 27/02/2023
- Refusals log dated 27/09/2022 until 15/03/2023 showing mainly vapes but some alcohol refusals with big increase in logs since 08/02/2023.

The Responsible Authority do not have confidence the licensing objectives are or will be promoted by the continuation of licensable activities at these premises and deem it both proportionate and necessary to invite the committee to consider a review of the premises alcohol licence, to limit further criminal activity by the licence holder and to act as a deterrent against such illegal conduct.

Home office guide ([Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](#)) on protecting children from harm states that:

2.29 Licensing authorities should give considerable weight to representations about child protection matters.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- *for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;*

11.28 It is envisaged that.....responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

It's contended that the sale/supply alcohol in the circumstances outlined above is a breach of the licencing objectives and the licensee has failed in their responsibilities to protect children from harm. The Responsible Authority respectfully suggest an appropriate outcome of the review would be a suspension of the premises alcohol licence for 3 months.

Please tick ✓ **yes**

Have you made an application for review relating to the premises before

No

If yes please state the date of that application

Day	Month	Year					

If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓ yes

- I have sent copies of this form and enclosures to the Responsible Authorities and the Premises Licence holder or Club holding the Club Premises Certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

✓
✓

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s Solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature: *Signature redacted*

Date: 12/04/2023

Capacity: Trading Standards Team Manager

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

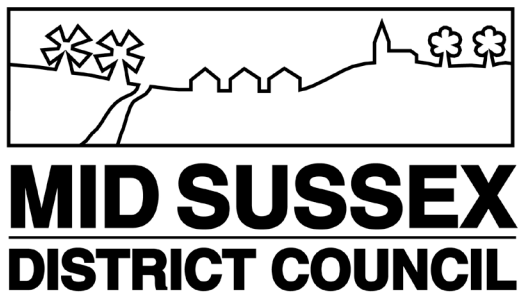
Post code

Telephone number (if any)

If you would prefer us to correspond with you by e-mail your e-mail address (optional)

Notes for Guidance

1. A Responsible Authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example Solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.



Licensing Team
Oaklands
Oaklands Road
HAYWARDS HEATH
West Sussex
RH16 1SS

Licensing Act 2003
Premises Licence
PWA0390

Part 1 - Premises Details

Postal address of Premises / Ordnance Survey map reference / Description of site

Arya Food & Wine

12 Station Road
Burgess Hill
West Sussex
RH15 9DQ

Telephone: 01444 616033

Where the Licence is time limited - the dates

Commences :- 8 June 2015

Licensable Activities authorised by the Licence and the times the Licence authorises the carrying out of Licensable Activities

Sale by retail of alcohol

Sunday 12:00 - 21:00
Monday to Saturday 10:00 - 22:30

The opening hours of the Premises

Monday to Saturday 10:00 - 22:30
Sunday 12:00 - 21:00

Where the Licence authorises supplies of alcohol whether these are On and / or Off supplies

Alcohol is supplied for consumption **off** the Premises

Part 2

Name, (registered) Address, Telephone number and Email (where relevant) of holder of Premises Licence

Mr Maheshkumar Sardarbai Chaudhari
Arya Food & Wine
12 Station Road
Burgess Hill
West Sussex
RH15 9DQ

Telephone: 01444 616033 / *Mobile redacted*
Electronic Mail: *Email address redacted*

Registered number of holder of premises licence (if applicable)

Name, Address and telephone number of Designated Premises Supervisor if the Premises Licence authorises the supply of Alcohol

Mr Maheshkumar Sardarbai Chaudhari
Address redacted

Personal Licence number and Issuing Authority of Personal Licence held by Designated Premises Supervisor where the Premises Licence authorises for the supply of Alcohol

Personal Licence Reference: 14/01401/LAPER
Licensing Authority: Crawley Borough Council

Annex 1 - Mandatory Conditions

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014.

- | | |
|---|---|
| 1 | <p>No supply of alcohol may be made under this licence:-</p> <ul style="list-style-type: none"> (a) At a time when there is no designated premises supervisor in respect of the premises licence; or (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended. |
| 2 | <p>Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.</p> |
| 3 | <ul style="list-style-type: none"> 1) The responsible person must ensure ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. 2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises. <ul style="list-style-type: none"> a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:- <ul style="list-style-type: none"> (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), (ii) or drink as much alcohol as possible (whether within a time limit or otherwise); b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective; c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective; d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability). <p>The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available. <i>(This condition does not apply to premises licensed for the sale of alcohol for consumption OFF the premises only)</i></p> |
| 4 | <ul style="list-style-type: none"> 1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol. |
| 5 | |

- 2) The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- 3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
 - a) A holographic mark or
 - b) An ultraviolet feature

The responsible person shall ensure that –

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Pricing Drinks

- 1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2) In this condition:-
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) “permitted price” is the price found by applying the formula $P = D + (D \times V)$, where:-
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty
 - (iii) were charged on the date of the sale or supply of the alcohol, and
 - (iv) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence:-
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence,
 - (iii) or the personal licence holder who makes or authorises a supply of alcohol
 - (iv) under such a licence; and
 - (d) “relevant person” means in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the

premises in a capacity which enables the member or officer to prevent the supply in question and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ('the first day') would be different from the permitted price on the next day ('the second day') as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

If the Premises Licence/Club Premises Certificate allows Exhibition of Films

The admission of persons under the age of 18 to the exhibition of films must be restricted in accordance with any recommendation of the *British Board of Film Classification*, or, where there is no such recommendation or the licensing authority has notified the holder that section 20(3)(b) of the Licensing Act 2003 applies to the film, the recommendation of the licensing authority.

If the Premises Licence has conditions in respect of Door Supervisors

1) Each individual, who in accordance with a condition on the premises licence, is present at the licensed premises to carry out a security activity must:

a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

b) be entitled to carry out that activity by virtue of section 4 of that Act.

2) "security activity" means an activity to which paragraph 2(1)(a) of Schedule 2 of the Private Security Industry Act 2001 applies, and which is licensable conduct for the purposes of that Act).

Conditions consistent with the operating schedule

Proof of Age and Challenge 18/21/25

- All cashiers/staff will be trained to require evidence of age from any person seeking to buy alcohol and appearing to the cashier to be under the age of 21. The evidence shall be photographic, such as passport or photographic driving licence or PASS approved documentation.

CCTV

- A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.
- The system will be maintained and fully operational throughout the hours that the

8

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premises are open for any licensable activity.

- Notices informing customers of the operation of the system shall be prominently displayed.

- The system will incorporate a recording facility and any recording shall be retained and stored in a suitable and secure manner for a minimum of 31 days and shall be made available, subject to compliance with Data Protection legislation, to the police for inspection on request.
- If the premises are using a video recording system, the cassette tape shall be used on no more than 12 occasions.

Conditions attached after a hearing by the Licensing Committee

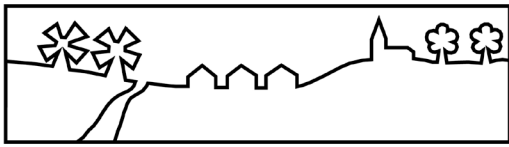
Plan of premises

See attached

Signature of authorised officer

Signature Redacted

Date of Issue: 25 June 2015



MID SUSSEX DISTRICT COUNCIL

Licensing Team
Oaklands
Oaklands Road
HAYWARDS HEATH
West Sussex
RH16 1SS

Licensing Act 2003 Premises Licence Summary PWA0390

Premises Details

Postal Address of Premises / Ordnance Survey map reference / Description of site

Arya Food & Wine
12 Station Road
Burgess Hill
West Sussex
RH15 9DQ

Where the Licence Is time limited - the dates

Commences:- 8 June 2015

Licensable Activities authorised by the Licence and the times the Licence authorises the carrying out of Licensable Activities

Sale by retail of alcohol

Sunday 12:00 - 21:00
Monday to Saturday 10:00 - 22:30

The opening hours of the Premises

Monday to Saturday 10:00 - 22:30
Sunday 12:00 - 21:00

Where the Licence authorises supplies of alcohol whether these are On and / or Off supplies

Alcohol is supplied for consumption **off** the Premises

Name and (registered) address of holder of premises licence

Mr Maheshkumar Sardarbhair Chaudhari
Arya Food And Wine
12 Station Road
Burgess Hill
West Sussex
RH15 9DQ

Registered number of holder of premises licence (if applicable)

Name of Designated Premises Supervisor where the Premises Licence authorises the supply of alcohol

Mr Maheshkumar Sardarbhair Chaudhari

State whether access to the Premises by children is restricted or prohibited

UK POLICE REQUIREMENTS FOR DIGITAL CCTV SYSTEMS

This document offers guidance to potential users of digital CCTV systems, where the pictures are intended to be used by the police or are likely to be used in an investigation. For CCTV recordings to be effective in detecting and investigating crime they must be fit for purpose and easily accessible by police investigators. For digital CCTV there are four main areas that must be considered:

QUALITY - are the pictures good enough?

STORAGE - are the pictures stored appropriately?

EXPORT - can the pictures be easily exported from the system?

PLAYBACK - can the pictures be easily viewed by authorised third parties?

By ensuring that your digital CCTV system is capable of meeting a few simple requirements, the potential evidential value of the pictures can be greatly increased and the time taken by the police to access and process them greatly reduced. Supporting notes are provided on the reverse of this sheet to clarify the requirements.

QUALITY WHAT RESOLUTION? WHAT COMPRESSION? HOW MANY PICTURES PER SECOND?



1. Specify your requirement - decide what you want to see and where, and select a system that will do it.
2. View the recorded pictures or print out, not the live screen, to assess the system performance.
3. The system clock should be set correctly and maintained (taking account of GMT and BST).
4. Picture quality should not be reduced to fit the available storage capacity of the system.
5. Regular maintenance should be conducted on all aspects of the system.

STORAGE WHAT SHOULD I KEEP? HOW SHOULD I KEEP IT?



6. The system should be operated and recorded pictures retained in a secure environment.
7. Electronic access controls, such as passwords or encryption, should not prevent authorised access to the system or recordings.
8. The system should have sufficient storage capacity for 31 days good quality pictures.
9. The system should be capable of securing relevant pictures for review or export at a later date.

EXPORT HOW MUCH VIDEO SHOULD THE SYSTEM EXPORT AND IN WHAT FORMAT?



10. A system operator should be available who is able to replay and export recordings.
11. A simple system operator's manual should be available locally to assist with replay and export.
12. The operator should know the retention period of the system and export time for various amounts of data.
13. The system should be able to quickly export video and stills to a removable storage-medium, with time and date integral to the relevant picture.
14. Export should include any software needed to view or replay the pictures.
15. The system should have an export method proportionate to the storage capacity.
16. Pictures should be exported in the native file format at the same quality that they were stored on the system.

PLAYBACK CAN THE PICTURES BE EASILY VIEWED?



17. The playback software should:
 - have variable speed control including frame by frame, forward and reverse viewing;
 - display single and multiple cameras and maintain aspect ratio i.e. the same relative height and width;
 - display a single camera at full resolution;
 - permit the recording from each camera to be searched by time and date;
 - allow printing and/or saving (e.g. bitmap) of pictures with time and date.
18. The time and date associated with each picture should be legible.
19. Once exported to removable media it should be possible to replay the files immediately.

Supporting Notes:

QUALITY - are the pictures good enough?

1. Before installing a CCTV system you should have a clear idea of what you want the system to do and how it should perform. This should include exactly what you want to see and where, e.g. recognise the face of someone walking through a doorway, read a vehicle registration number or record a particular type of activity, such as walking across a room, exchange of money or an assault. More detailed guidance on how to do this can be found in PSDB publication 17/94 CCTV Operational Requirements Manual. This is available free from the Home Office website. http://www.homeoffice.gov.uk/docs/or_manual.pdf

There are no definitive performance criteria for video to be legally admissible. It is for the court to decide whether the pictures are accepted, and this is done on the grounds of relevance to the case, reliability of the evidence, etc. The appropriate resolution, level of compression and number of pictures per second will be determined by what you wish to see in the recording. If you can't see it then it's not fit for purpose. It should not be expected that enhancement features, such as zoom controls, will provide extra detail.

A good way to ensure that the system is capable of achieving the requirement is to do a subjective test. Set-up a camera and get a volunteer to walk through the door or park a car in the place of interest and record the pictures. This should be done under the conditions that the system is intended to be used - performance of the system may be different when there are a number of cameras being recorded.

2. The quality of the recorded or printed pictures may differ from the live display.
3. Time and date information is often critical to an investigation. If it is incorrect this can drain police time and resources.
4. The quality of the pictures should not be compromised to allow more to be squeezed onto the system. There is some scope however for using a sliding scale of image quality based on time since recording. For example, high quality high frame rate video for the first 24 hours with gradually increasing compression or decreasing frame rate after this, but retaining useful images up to 31 days. This would be dependent on the nature of the installation and the type of recordings being made. Guidance should be sought from your local police force.
5. To ensure continued quality of recording it is essential that regular maintenance of all aspects of the system be conducted - especially camera focus, cleaning of lenses, housings, etc.

STORAGE - are the pictures stored appropriately?

6. Access to the system and recorded images should be controlled to prevent tampering or unauthorised viewing. A record should be kept of who has accessed the system and when. Further information on this can be found in the BSI document 'Code of Practice for Legal Admissibility of Information Stored Electronically' (BIP0008) or from your local Crime Prevention Officer.

7. Electronic protection methods that require proprietary software or hardware will hinder an investigation if they prevent the pictures from being provided to authorised third parties, e.g. police and CPS. Physical methods of access control, e.g. system in a locked room, are just as effective if documented appropriately.
8. It is important that recordings cover a sufficiently long period to assist in investigations. Retention beyond 31 days may be useful in some circumstances, but should not affect the quality of the more recent recordings.
9. It should be possible to protect specific pictures or sequences, identified as relevant to an investigation, to prevent overwriting before an investigator can view or extract them.

EXPORT - can the pictures be easily exported from the system?

10. and 11. It is unlikely that the investigator will be familiar with the operation of your system. To facilitate replay and export a trained operator and simple user guide should be available locally.
12. and 13. Export of medium and large volumes of data can take a substantial period of time. The operator should know the retention period of the system and approximate times to export short (e.g. 15 minutes), medium (e.g. 24 hours), and large (up to all of the system) amounts of data.
14. If the software needed to replay the pictures is not included at export, viewing by authorised third-parties can be hindered. Export of a system event log or audit trail, and any system settings with the pictures will assist with establishing the integrity of the pictures and system.
15. The amount of video that an investigator will need to export will be dependent on the nature of the investigation. For example a shop robbery may only require a few stills or a short sequence, however a more serious incident such as a murder or terrorist related enquiry may require anything up to all the video contained on the system to be exported. It is essential that the system is capable of doing this quickly and to an appropriate medium. An ideal solution for medium-to-large downloads, would be for the system to have the facility to export to a 'plug-and-play' hard drive. Export and recording should be possible at the same time without affecting the performance of the system.
16. The system should not apply any compression to the picture when it is exported from the system as this can reduce the usefulness of the content. Also, the picture should not undergo any format conversion that affects the content or picture quality.

PLAYBACK - can the pictures be easily viewed by authorised third parties?

17. and 18. The replay software must allow the investigator to search the pictures effectively and see all the information contained in the picture and associated with it.
19. It should be possible to replay exported files immediately e.g. no re-indexing of files or verification checks.

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APPENDIX 3

Front View of Premises



Counter Area



Challenge 25 signage



Shop Floor area



View towards Counter from rear of shop



CCTV monitor opposite Counter



STATEMENT OF WITNESS

*(Criminal Procedure Rules 2020, Rule 16.2,
Criminal Justice Act 1967, s. 9)*

STATEMENT OF: Elaine Sarah Lucas

Age of witness (if over 18, enter "over 18"): OVER 18

Occupation of Witness: SENIOR TRADING STANDARDS OFFICER

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the day 17th of April 2023

Signed



I am the above named person and I am employed as a Senior Trading Standards Officer within West Sussex County Council Trading Standards Service. I have held this post since 20th February 2023 and previously worked within Hampshire and Southampton Trading Standards since 2008.

On 22nd February 2023 I was tasked to investigate the sale of alcohol to a child on 8th February 2023 at Chaudhari Wines Ltd trading as Arya Food and Wine, 12 Station Road, Burgess Hill, West Sussex, RH15 9DQ by Mehulkumar Jesangbhai CHAUDHARY (dob 21/07/1995), an employee of Chaudhari Wines Ltd. This sale is alleged to be an offence under the Licensing Act 2003.

On 14th March 2023 I emailed a letter to the director Mr M S Chaudhari, Chaudhari Wine Ltd 12 Station Road Burgess Hill Rh15 9DQ with a formal written interview under The Police and Criminal Evidence Act 1984 (PACE). I produce a copy of this letter as **EL/1**.

On 22nd March 2023 I received an email response from Mahesh Chaudhari, email address [REDACTED] Attached to this email were the following documents:

- Premises Age Verification Policy, I produce this document as **MC/EL/1.**
- Written Authorisation for the Sale of Alcohol, I produce this document as **MC/EL/2.**
- Staff Training Record for Mehul Chaudhari, I produce this document as **MC/EL/3.**
- Scanned Documents, showing a refusals log for 27/9/22 to 15/03/23, I produce this document as **MC/EL/4.**
- A document saved as County, which is a scanned copy of EL/1 with responses to the PACE interview questions, I produce this document as **MC/EL/5.**

I compiled the above evidence into a report that I sent to my manager, Peter Aston, for him to decide how to proceed in dealing with the alleged offence under the Licensing Act 2003.

[REDACTED]

STATEMENT OF WITNESS

*(Criminal Procedure Rules 2020, Rule 16.2,
Criminal Justice Act 1967, s. 9)*

STATEMENT OF: Elaine Sarah Lucas

Age of witness (if over 18, enter "over 18"): OVER 18

Occupation of Witness: SENIOR TRADING STANDARDS OFFICER

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 21st April 2023

Signed



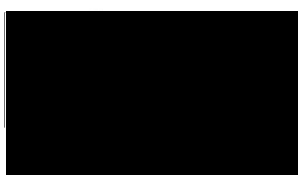
I am the above named person and I am employed as a Senior Trading Standards Officer within West Sussex County Council Trading Standards Service. I have held this post since 20th February 2023 and previously worked within Hampshire and Southampton Trading Standards since 2008.

This statement is in addition to my statement dated 17th April 2023, in relation to the investigation into the sale of alcohol to a child on 8th February 2023 at Chaudhari Wines Ltd.

On 21st April 2023, at the evidence store in Horsham, I took two photographs of exhibit LD/12SR/1 using my work A04s Samsung mobile phone. I produce the photos as:

LD/12SR/1/EL/Photo1 – A photograph of the front of a WKD Blue 700ml bottle

LD/12SR/1/EL/Photo2 – A photograph of the back of a WKD Blue 700ml bottle.



Premises Age Verification Policy

This policy applies in relation to the sale or supply of alcohol on the following Premises:

Name and address of premises

ARYA FOOD & WINE
12, Station Road
Burgess Hill, RH15 9DP

Name of premises licence holder

Maheshkumar Chandhari

Name of designated premises supervisor

Maheshkumar Chandhari

1. This policy applies in relation to the sale or supply of alcohol on these premises.

2. For this policy the responsible person is one of the following:

- the holder of the premises licence;
- the designated premises supervisor;
- a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18

3. Staff serving alcohol on the premises must require any individuals who appear to the responsible person to be under the age of

to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature

4. Examples of appropriate identification include:

- A passport
- A photo card driving licence
- A proof of age card bearing the PASS hologram

4. The designated premises supervisor will ensure that the supply of alcohol at the premises is carried on in accordance with this policy.

Signed: [Redacted] Date 27/01/2023
DESIGNATED PREMISES SUPERVISOR

5. The premises licence holder will ensure that staff are made aware of the existence and content of this policy.

Signed: [Redacted]
PREMISES LICENCE HOLDER

Written Authorisation for the Sale of Alcohol

I MAHESHKUMAR CHAUDHARI (print name) the designated premises supervisor (DPS) authorise the following people to sell alcohol in my absence. I have provided training on preventing alcohol sales to persons aged under 18 to the named members of staff.

Personal licence number 14/01401/LAFGR

Issued by CRAWLEY COUNCIL (name of Local Authority)

Date of expiry 31/01/2024

DPS Signature



Employee
Signature

Employee Name	Date	DPS Signature	Employee Signature
Neeta Chaudhari	21/08/2020	[Redacted]	[Redacted]
Mehul Chaudhari	01/10/2021	[Redacted]	[Redacted]
Haresh Patel	23/10/2022	[Redacted]	[Redacted]
Rejoined Mehul Chaudhari	15/1/2023	[Redacted]	[Redacted]



STAFF TRAINING RECORD

(continued)

Name: *Mehul Chandhatri*
 Telephone no:
 Email address:

SAFE METHOD ON FIRST DAY:	DATE	INITIALS
Working with food? Factsheet	23/10/21	
Opening and closing checks		
Cross-contamination		
Separation food	24/10/21	MC
Physical & chemical Contamination	23/10/21	MC
Pest Control	21/10/21	MC
Cleaning		
Chilling		
Chilling food storage	24/10/21	MC
Defrosting theory	23/10/21	MC
Expanding cream	23/10/21	MC
Cooking		
Management		
Other training or retraining		

Name: *Mehul Chandhatri*
 Telephone no:
 Email address:

SAFE METHOD ON FIRST DAY:	DATE	INITIALS
Working with food? Factsheet	15/01/23	ME
Opening and closing checks		
Cross-contamination		
Fire Risk Assessment	15/01/23	ME
Sell of Alcohol	15/01/23	ME
Food & Hygiene	15/01/23	ME
Fire Evacuation	15/01/23	ME
Sell of Age Restricted Products	15/01/23	ME
National Lottery	15/01/23	ME
Cleaning		
<u>Retraining</u>		
Chilling		
Fire Risk Assessment	27/2/23	ME
Sell of Alcohol	27/2/23	ME
Sell of Age Restricted Products	27/2/23	ME
Cooking		
Food & Hygiene	27/2/23	ME
Management		
Other training or retraining		

Date	Time	Item Asked For	Description of person	Action Taken
27/9/22	12:40	E17 Bar	boy	Refused
29/9/22	17:05	E18 Bar	boy	Refused
01/10/22	11:24	E17 Bar	Girl	Refused
01/10/22	11:26	E18 Bar	boy	Refused
16/10/22	13:15	Cigarettes	boy	Refused
21/10/22	10:25	Lighter, Sterling Duff	2 black girls School Uni	Refused
11/11/22	09:15 pm	E17 Bars	Boy	Refused
15/11/22	11:30 am	Ambats Licat 30g	girl	Refused
07/12/22	16:59 pm	E17 Bar	Boy	Refused
28/12/22	18:55 pm	E18 Bar	Girl	Refused
09/01/23	13:42 pm	E17 Bar	Two Girls	Refused
19/01/23	21:03 pm	Vodka	white boys	Refused
8/2/23	11:45 am	LANDA DEBY TRADING STANDARDS	[REDACTED]	[REDACTED]
10/2/23	18:16 pm	E17 Bar	Girl	[REDACTED]
13/02/2023	14:15	SUSSEX POOL PC LUGO	11 / 1101	[REDACTED]
14/02/23	15:28 pm	E17 boy	Girls duplicate ID	[REDACTED]
15/02/23	17:49 pm	E17 boy	boy	[REDACTED]
16/02/23	10:30 AM	E17 boy	boy	[REDACTED]
16/02/23	17:58 pm	pineapple last mary	white girl	[REDACTED]
19/02/2023	16:21	Swimwear 35d.	Black Girl School Uni	[REDACTED]
21/2/23	14:00	SUSSEX POOL PC LUGO	11 / 1101	[REDACTED]
23/2/23	20:46	Vodka, crystal Bar lemon x 3 lime	Three Girl 4 notes age	Refused
24/2/23	20:32	watermelon last mary	with Alcohol	[REDACTED]
27/02/2023	18:08	Lighter Clipper	School Boys-2	[REDACTED]
01/03/2023	15:25	Magnum Tonic Wine	17-years old-boys Black white	[REDACTED]
02/03/2023	11:05	Licensing officer MSJC	for Bryant Court	[REDACTED]
04/03/2023	16:38	strawberry kiwi last mary	3-boys with pass	[REDACTED]
09/03/23	21:36	cool vodkae sheets	girl with pass	[REDACTED]
15/03/23	12:17	2 last mary	boys without ID	[REDACTED]

Elaine Lucas
Senior Trading Standards Officer
Trading Standards Service
0330 222 7655 (Direct)
01403 249 987 (Fax)
[REDACTED]
www.westsussex.gov.uk

4th Floor Parkside
Chart Way
Horsham
West Sussex
RH12 1XH
01243 642124



Mr M S Chaudhari
Chaudhari Wine Ltd
Trading as Arya Food & Wine
12 Station Road
Burgess Hill
RH15 9DQ

14th March 2023

Dear Mr Chaudhari,

The Police and Criminal Evidence Act 1984

The Licensing Act 2003

West Sussex County Council's Trading Standards Service (WSCCTS) are investigating offences alleged to have taken place at Arya Food and Wine 12 Station Road, Burgess Hill, West Sussex, RH15 9DQ.

On 8th February 2023 at approximately 11:17 Officers from WSCCTS visited Arya Food and Wine as part of a controlled test purchasing operation. Officers witnessed a male employee, who gave his name as Mehulkumar Jesangbhai CHAUDHARY, sell a bottle of WKD Blue alcoholic drink to a child under the age of 18. This sale is contrary to Section 146 of the Licensing Act 2003. It was witnessed that the male, Mr Chaudhary did not ask the volunteer for their age or ask them for any identification.

Under section 146 of the Licensing Act 2003 it is a criminal offence to sell alcohol to a person who is under the age of 18 years old. It is therefore alleged that offences have been committed under Section 146 of the Licensing Act 2003 by both the company, Chaudhari Wine Ltd, and the seller Mr Chaudhary.

Due to the potential contraventions of the above legislation, I now request a formal interview with you, as director of Chaudhari Wine Ltd, in accordance with the **Police and Criminal Evidence Act 1984**. I need to formally put some questions to a representative of the company

about the alleged offences. For convenience, I propose that this interview takes place in writing and enclose questions below. If, however you would prefer for the interview to take place face to face then please let me know.

Please note West Sussex Trading Standards has a zero tolerance to the sale of alcohol to children. Unless there are exceptional circumstances, where there is sufficient evidence to show an underage sale of alcohol has taken place, we will seek a review of the premises alcohol licence with the aim of having the licence suspended or revoked. The seller and business will also be subject to enforcement action in line with our published enforcement policy. www.westsussex.gov.uk/business-and-consumers/trading-standards-advice-for-businesses/

Please return your responses to these questions to me, together with any documentation that you wish to rely on, by the **24th March 2023**. Your responses can be emailed to me at [REDACTED], or sent by post to the address at the top of this letter.

Please note that dependant on your answers I may need to ask supplementary questions. Please feel free to seek appropriate legal advice or representation in connection with this matter as you see fit.

If you or your legal representative wish to discuss this matter further, please do not hesitate to contact me. Please remember that you are under caution and that:

You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.

Yours sincerely,

[REDACTED]
Elaine Lucas

Senior Trading Standards Officer

Enc.

1. Notice to Persons attending voluntary interviews
2. PACE Questions
3. NA/1 – Licensing Act 2003 advice letter from Natasha Ali 14/09/2023

Police and Criminal Evidence Act 1984 – voluntary interview under caution

Below are the questions that are to be answered and returned by email to

[REDACTED] or posted to:

Elaine Lucas
Senior Trading Standards Officer
Trading Standards
4th Floor Parkside
Chart Way
Horsham
West Sussex
RH12 1XH

by 24th March 2023

CAUTION:

"You do not have to say anything, but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence."

Do you understand the caution?

Please Sign below to confirm understanding of the caution

Sign.....

1. Please state the company name, company address and confirm if you are a sole trader, a partnership or a limited company? **CHAUDHARI WINE LIMITED.**

2. If the business is a partnership, please provide names and addresses of the other partners. If the business is a limited company please provide the Registered company address and registered company number. **08996581**

3. Please state your full name and date of birth.

4. Please state your position within the company and briefly explain what your role entails.

DIRECTOR

5. If the business is a company, please confirm that you are authorised to answer these questions on behalf of the company. (Please can you provide written confirmation from the Company?) **YES. I am confirming here.**
6. How many premises do you/the company have? (Please provide name and addresses.)
1 (this one only).
7. What is the annual turnover of Arya Food and Wine?
Around £320,000 - per year
8. What is the annual turnover of Arya Food and Wine in relation to the sale of alcohol?
Around £80,000 -
9. Please confirm the name of the personal licence holder?
Maheshkumar Chaudhari
10. Please confirm the name of the designated premises supervisor?
Maheshkumar Chaudhari
11. On the 8th February 2023, West Sussex County Council Trading Standards carried out a test purchase of alcohol by a person under the age of 18 years old. The volunteer under our direction purchased a bottle of WKD Blue alcoholic drink from Arya Food and Wine 12 Station Road Burgess Hill, West Sussex, RH15 9DQ. Can you explain how a minor was able to purchase alcohol from your business?
- Usually we check IDs but my colleague has misunderstood his age and he thought he might be 16. and he sold it.
12. What procedures do you have in place to prevent selling age restricted products to children? (Please provide copies of any written procedures.)
- ASK for ID, NO ID NO SELL.
13. Who was responsible for drawing up these procedures? (Please state their role within the company.) **Mahesh Chaudhari (Director)**
14. What training was provided to the seller, Mr Mehulkumar Jesangbhai CHAUDHARY?
Full training of Age identification of age restricted products and what ID's need to be checked.
15. On 12th September 2022 my colleague, Natasha Ali, visited Arya Food and Wine and provided advice in relation to selling age restricted products. Miss Ali followed up the visit by sending an advice letter to yourself. (see NA/2) Can you confirm that you did receive this letter? **YES.**
16. Did you take any actions or make any changes after having this advice visit or receiving this letter? **I have retrained the staff maintaining & checking all records more regularly.**
17. Who is the Designated Premises Supervisor?
Mahesh Chaudhari
18. Were you present at Arya Food and Wine 12 Station Road Burgess Hill, West Sussex, RH15 9DQ at approximately 11.17am when the sale of alcohol to the minor took place on the 8th February 2023?
NO.
19. The alcohol was sold to the minor by Mehulkumar Jesangbhai CHAUDHARY, does Mehulkumar Jesangbhai CHAUDHARY hold a Personal Licence?
NO.

20. How long has Mehulkumar Jesangbhai CHAUDHARY worked for you at the store?

2.5 Months.

21. What is Mehulkumar Jesangbhai CHAUDHARY's role at the store?

Store Manager

22. What training have you provided to Mehulkumar Jesangbhai CHAUDHARY relating to the prevention of Underage Sales? Please provide copies of any training records.

- Age Restriction Policy, Age limit to sell related

23. Do you use a refusals register or log to keep a record of attempted underage sales at your shop? If so, please provide a copy of pages covering January and February 2023.

YES.

24. Is the refusals register / log used by all staff?

YES

25. Do you monitor the refusals register /log to ensure that all staff are updating it? How often? Is this documented anywhere? Please provide evidence.

YES, every week,

26. When was Mehulkumar Jesangbhai CHAUDHARY trained in the use of the refusals register / log?

15/01/2023

27. Do you have a written record of the training provided to Mehulkumar Jesangbhai CHAUDHARY? If so please provide this.

YES.

28. Do you have a Challenge 25 policy in place at the store?

YES

29. If so, please explain your understanding of this policy?

It anyone looks under 25, we must ask for ID before selling any age restricted products.

30. Are staff trained in the Challenge 25 policy? Please provide evidence.

YES.

31. Since the visit on 8th February 2023, when the sale of alcohol to an underage volunteer took place, what actions or changes have you made to your business to prevent the sale of age restricted products to minors?

Retrained the staff.

32. Who instigated these changes?

Mahesh Chaudhari

33. Are these actions or changes documented? If so, please provide me with a copy.

YES.

34. Does the store have CCTV, and if so do you review the CCTV to ensure that alcohol is not being sold to minors? If so how often is it monitored?

YES, every 2 weeks.

35. Do you use till prompts to remind staff to ask for ID when selling an age restricted product?

YES

36. What, if anything, do you feel Chaudhari Wine Ltd trading as Arya Food and Wine could have done to prevent the sale of alcohol to the underage volunteer on 8th February 2023?

- Retrained the staff and keep checking refusal book record and till record & CCTV. to make sure every staff is checking ID's without fail.

37. Do you accept that Chaudhari Wine Ltd trading as Arya Food and Wine sold alcohol to an individual under the age of 18, contrary to the Licensing Act 2003?

Yes, my staff has done that mistake, I accept.

38. Do you wish to add or make any further other comments?

- It never happened in last 9 years and I would

Please ensure that you answer all the questions or indicate no comment.

make sure it would never happen again.

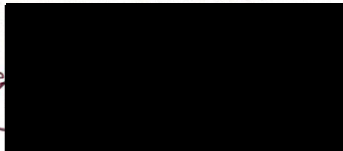
Please sign and return your responses to me, along with any supporting documents.

Name: Mahesh Chaudhari

--- sorry.

Position: Director

Signature



Date:

22/03/2023

STATEMENT OF WITNESS

*(Criminal Procedure Rules 2015, Rule 16.2,
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)*

STATEMENT OF: Laura Rachel Derby

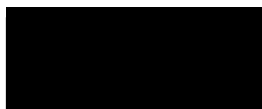
Age of Witness: Over 18

Occupation of Witness: Senior Trading Standards Officer

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated: 27th February 2023

Signed



I am a Senior Trading Standards Officer employed by West Sussex County Council.

On 8th February 2023, I participated in an underage sales operation accompanied by my two colleagues Natasha Ali (Trainee Trading Standards Officer) and Christina Cairns (Trainee Trading Standards Officer). A 17-year-old (17 years, 2 months and 23 days old) female volunteer was also working under the instruction and supervision of Trading Standards. The purpose of the operation was to ensure West Sussex businesses were compliant in that they were not selling age restricted products to children under the age of 18.

The volunteer was assigned the unique code 'NZA1' to protect her identity.

At approximately 1117 hours, as part of the operation, I entered Arya Food and Wine, 12 Station Road, Burgess Hill, West Sussex, RH15 9DQ accompanied by Christina Cairns. We browsed around the shop acting as normal customers would until a few moments later, when the volunteer entered the shop. At this point, I positioned myself behind the volunteer in the queue. The shop was quiet at the time. I witnessed the volunteer put a bottle of WKD Blue alcoholic drink onto the till counter and I heard the male working behind the counter ask the volunteer for £3.39. I saw

the volunteer hand the male a £5 note and receive some change from him and then I witnessed her exit the shop with the bottle of WKD. Christina Cairns and I then purchased our products and exited the shop. During the transaction, the male didn't ask the volunteer for an age identification or even ask her how old she was. Christina Cairns and I returned to the support vehicle and I sealed the alcoholic drink in an evidence bag and completed the information on the evidence bag and gave it the following reference which I now produce as exhibit:

LD/12SR/1 – 1 x WKD Blue – 700ml – seal no. LC00030906

At approximately 1128 hours, Christina Cairns and I returned to Arya Food and Wine, 12 Station Road, Burgess Hill, West Sussex, RH15 9DQ and I introduced us both to the male working behind the till counter and explained the reason for the visit. I advised the male that I had just witnessed him sell alcohol to a 17 year old and advised him that I would need to ask him some questions in relation to the incident. I asked the male for his name and date of birth and he advised me that his name was Mr Mehulkumar Jesangbhai CHAUDHARY (dob 21/07/1995). I cautioned him and explained the caution to him which he advised that he understood. I asked Mr Mehulkumar Jesangbhai CHAUDHARY a series of questions in relation to the sale and the answers were recorded in my pocket notebook. Mr Mehulkumar Jesangbhai CHAUDHARY advised me that he lived in Crawley and I recorded the exact address in my pocket notebook.

Mr Mehulkumar Jesangbhai CHAUDHARY advised me that he had worked at Arya Food and Wine for just under a year and he worked 40 hours per week. When asked who the owner of the business was, he initially told me that he didn't know and then advised me that it was a Mr Mahes CHAUDHARI. He gave me Mr Mahes CHAUDHARI's phone number which I recorded in my pocket notebook. Mr Mehulkumar Jesangbhai CHAUDHARY informed me that he had started work at 10am that day. When I asked Mr Mehulkumar Jesangbhai CHAUDHARY about the sale of alcohol to a minor, he said that he couldn't remember the sale. I suggested that he went back on the till to look at the last transactions but he said only the manager was able to access past transactions. I asked him what training he had

received, and he advised me that he had been instructed to only sell age restricted products to over 18s and to check age identification such as driving licence, passport and cards with the pass hologram. He advised that his training took place every two months and he signed paperwork to confirm that he had been trained but said that he believed the training paperwork was kept off site. I looked at the refusals log and saw that the last entry that had been made was on 19th January 2023. There was no column on the refusals log to show which staff member had challenged and refused the sale but Mr Mehulkumar Jesangbhai CHAUDHARY told me that all the refusals had been by him.

Before leaving the premises, I checked the till prompts which were in fully working order and saw that there was CCTV present. Mr Mehulkumar Jesangbhai CHAUDHARY advised me that only his manager could access the CCTV though. I saw that there were Challenge 25 posters present and noted this in my pocket notebook.

Christina Cairns and I left the premises together.

Address: WSCC, Parkside, Chart Way, Horsham, RH12 1XH

Email address: [REDACTED]

Mobile number: [REDACTED]

Other number(s): 03302 227654

Date and place of birth: REDACTED

Married name: REDACTED

Female

Dates to be avoided. Delete dates of non-availability of witness:

Month of : February							Month of : March							Month of : April						
1	2	3	4	5	6	7	1	2	3	4	5	6	7	1	2	3	4	5	6	7
8	9	10	11	12	13	14	8	9	10	11	12	13	14	8	9	10	11	12	13	14
15	16	17	18	19	20	21	15	16	17	18	19	20	21	15	16	17	18	19	20	21
22	23	24	25	26	27	28	22	23	24	25	26	27	28	22	23	24	25	26	27	28
29	30	31					29	30	31					29	30	31				
Month of : May							Month of : June							Month of : July						
1	2	3	4	5	6	7	1	2	3	4	5	6	7	1	2	3	4	5	6	7
8	9	10	11	12	13	14	8	9	10	11	12	13	14	8	9	10	11	12	13	14
15	16	17	18	19	20	21	15	16	17	18	19	20	21	15	16	17	18	19	20	21
22	23	24	25	26	27	28	22	23	24	25	26	27	28	22	23	24	25	26	27	28
29	30	31					29	30	31					29	30	31				

Contact details if different from above

Address:

Email address:

Mobile number:

Other number(s):

CRIMINAL PROCEDURE AND INVESTIGATIONS ACT 1996

Record below anything that may affect the credibility of the person making this statement, e.g.; previous convictions, relationship to defendant. If there is nothing state 'none' below.

None

Dated: 27th February 2023

Signed [REDACTED]



Exhibit reference: LD/12SR/1/EL/PHOTO 1

Description: Photograph of the front of the WKD Blue 700ml bottle test purchased by a child volunteer on 08/02/2023 at Arya Food & Wine Arya Food & Wine.

Produced by: Elaine Lucas

Date: 21/04/2023

Signed: 



Exhibit reference: LD/12SR/1/EL/PHOTO2

Description: Photograph of the back of the WKD Blue 700ml bottle test purchased by a child volunteer on 08/02/2023 at Arya Food & Wine Arya Food & Wine.

Produced by: Elaine Lucas

Date: 21/04/2023

Signed: [REDACTED]

STATEMENT OF WITNESS

*(Criminal Procedure Rules 2020, Rule 16.2,
Criminal Justice Act 1967, s. 9)*

STATEMENT OF: MISS NATASHA ZARA ALI

Age of witness (if over 18, enter "over 18"): OVER 18

Occupation of Witness: TRAINEE TRADING STANDARDS OFFICER

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 10th day of March 2023

Signed



I am currently employed as a Trainee Trading Standards Officer within West Sussex County Council Trading Standards Service.

On the 9th of September 2022, I called Chaudhari Wine Ltd T/A Arya Food & Wine, 12 Station Road, Burgess Hill, West Sussex, RH15 9DQ to arrange an underage sales advice visit. I spoke to Mr CHAUDHARI who is the owner on the phone and explained that there has been an allegation against Arya Food & Wine, which is selling age restricted products to young children. I arranged to visit Arya Food & Wine on the 12th of September 2022 at approximately between 1000 and 1100 hours with Mr CHAUDHARI.

On the 12th of September 2022, I visited Chaudhari Wine Ltd T/A Arya Food & Wine, 12 Station Road, Burgess Hill, West Sussex, RH15 9DQ. I spoke to Mr CHAUDHARI who is the owner of Arya Food & Wine and explained about the allegation against the business. I begin to fill in the visit report (reference 4652).

Mr CHAUDHARI explained that there are two employees who work in the shop. Arya Food & Wine have been trading for 9 years. Key points that I discussed and checked

with Mr CHAUDHARI is Arya Food and Wine's refusal log. The last entry on the refusal log was 09/09/2022 for an Elf bar. There was a statutory tobacco sign located on the gantry in the shop. I located an Under 25 poster in the premise. I spoke about CCTV, Mr CHAUDHARI explained that it is present, and it covers the inside of the shop. I advised that the CCTV should cover the front of the shop to avoid proxy sales.

I asked to see any staff training logs, Mr CHAUDHARI explained that he has a log at home. I gave two Business Companion handouts to Mr CHAUDHARI which are for Alcohol, Tobacco and Nicotine Inhaling products and explained to read these handouts every couple of months to refresh staff training and make a log of this. The last check I made was regarding till prompts, till prompts were present.

I explained to Mr CHAUDHARI that WSCC Trading Standards will be doing a future test purchase with a volunteer and if Arya Food & Wine fails our test purchase it could result in alcohol revocation. Mr CHAUDHARI signed the visit report at the end, and a copy was given to him.

Approximately at 1050 hours I exit Arya Food & Wine.

I sent follow up advice letter via email on the 14th of September 2022 to Mr CHAUDHARI'S email address which reiterated what was discussed on the advice visit.

I am producing the following paperwork:

NA/AFW/UAS/TP/1- Follow up advice letter via email

NA/AFW/UAS/TP/2- Visit report (reference 4652)

On the 8th of February 2023, I participated in an Underage sales test purchase day, with two colleagues, Laura DERBY (Senior Trading Standards Officer) and Christina CAIRNS (Trainee Trading Standards Officer). A volunteer who is 17 years old participated in the Underage sales test purchase day, under the instruction and

supervision of WSCC Trading Standards. The purpose of this operation is to make sure that that West Sussex businesses are compliant with the procedures set out for age restricted products to children under the age of 18.

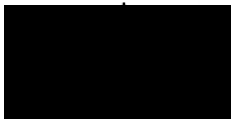
Prior to visiting the businesses, we collected the volunteer, where we briefed them and took photographs of their appearance that day. The volunteer is assigned a unique code "NZA1" to protect her identity.

At approximately 1117 hours I witnessed Mrs DERBY and Ms CAIRNS enter Chaudhari Wine Ltd T/A Arya Food & Wine, 12 Station Road, Burgess Hill, West Sussex, RH15 9DQ. I waited further down from the business premise. Shortly after, I saw the volunteer enter Arya Food & Wine. After a few minutes, I witnessed the volunteer exit Arya Food & Wine with a bottle of WKD. The volunteer gives me the bottle of WKD and we go back to the operation car. I saw Mrs DERBY and Ms CAIRNS follow behind. When we get to the operation car, I put the WKD bottle in an evidence bag and it is sealed off and Mrs DEBRY put hers reference on the bag.

At approximately at 11:30 hours, Mrs DERBY and Ms CAIRNS go back to Arya Food & Wine to interview the seller.

At the end of operation. We returned to our offices in Horsham, where we placed the evidence from Underage sales test purchase day in the evidence room.

I now produce as evidence a photocopy of my pocket notebook at the time of the incident as **NA/AFW/UAS/TP/3**





Trading Standards Service
 Parkside
 Chart Way
 Horsham
 RH12 1XH
 Tel: (01243) 642124
 trading.standards@westsussex.gov.uk

Officer's Contact Details:

Tel: 0330 222 2334

Email: [redacted]@westsussex.gov.uk

Proprietor: CHAUDHARI WINELTD
 Trading Name: ARYA FOOD & WINE
 Address: 12 Station Road, Burgess Hill
 Tel: 0144 616 033 Postcode: RH15 9DA

Registered Office: _____
 Mobile: [redacted]
 Email: [redacted]
 Website: _____
 Type of Business: Convenience store.

- | | | |
|--|--|--|
| <input type="checkbox"/> Animal Health Act 1981 | <input type="checkbox"/> Health & Safety at Work etc. Act 1974 | <input type="checkbox"/> The Explosives Regulations 2014 |
| <input checked="" type="checkbox"/> Consumer Protection Act 1987 | <input type="checkbox"/> The Dangerous Substances & Explosive Atmospheres Regulations 2002 | <input type="checkbox"/> The Animal Feed (Hygiene, Sampling etc. & Enforcement) (England) Regulations 2015 |
| <input checked="" type="checkbox"/> Consumer Rights Act 2015 | <input type="checkbox"/> The General Product Safety Regulations 2005 | <input type="checkbox"/> Other (specify) |
| <input type="checkbox"/> Trade Marks Act 1994 | <input type="checkbox"/> The Petroleum (Consolidation) Regulations 2014 | |
| <input type="checkbox"/> Weights & Measures Act 1985 | <input type="checkbox"/> The Consumer Protection from Unfair Trading Regulations 2008 | |

This report covers a summary of the inspection and does not indicate full compliance with any legislation. In case of dispute, contact the Service address above.

FOOD STANDARDS INSPECTION REPORT

Food Safety Act 1990 | Food Safety & Hygiene (England) Regulations 2013 | Food Information Regulations 2014

- | | | | | |
|---------------------------------------|---|---|---|---|
| <input type="checkbox"/> Records | <input type="checkbox"/> Specifications | <input type="checkbox"/> Production Process | <input type="checkbox"/> Composition, Labelling, Presentation | <input type="checkbox"/> Product Design & Recipe |
| <input type="checkbox"/> Traceability | <input type="checkbox"/> Stock Rotation | <input type="checkbox"/> Completed Product | <input type="checkbox"/> Quality / Management Systems | <input type="checkbox"/> Recall / Relabelling Systems |

Corrective actions & timescales (legal requirements)

- Spoke to Mr Chaudhari ^{owner} about complaint for UAS
- 2 full time employees - owner & manager.
- limited company - 9 years trading.

Failure to comply with legal requirements may constitute an offence and may lead to enforcement action.

Key points discussed, comments and recommendations

- refusal log to be viewed. - last entry - 9/9/2022 16:30 / Elf bar. refused.
- checked what LD they check
- statutory tobacco sign located near gantry
- Under 25 ~~stat~~ posters on gantry
- CCTV system inside shop - will be changing in the future, advised about CCTV facing outside for proxy sales
- training logs for staff - not at the shop, at owners house. advised to train every month, and to make sure it is logged. Business companion handout (Alcohol tobacco) given.
- Till prompts checked, comes up - explained about test average in future.

Actions to be taken by Officer

Guidance to follow

- explained if business fails test purchase, TS will do a license review

Issued by: NATASHA AIT
 Signed: [redacted] (Authorised Officer)
 Date: 12 / 09 / 20 22 Time: 10:50
 In the event of any dispute or complaint please contact:
 trading.standards@westsussex.gov.uk or call (01243) 642124

Person seen (print name in capitals): Mahesh Chaudhari
 Signed: [redacted]
 Position: Director / owner

14TH September 2022

Mr Chaudhari
Chaudhari Wine Ltd T/A Arya Food & Wine
12 Station Road
Burgess Hill
West Sussex
RH15 9DQ

Dear Mr Chaudhari,

Our Ref: A444070

Licensing Act 2003

I'm writing to you following my visit on the Monday 12th September 2022 regarding a complaint that has been received by West Sussex Trading Standards, alleging Chaudhari Wine Ltd T/A Arya Food & Wine, 12 Station Road, Burgess Hill, West Sussex, RH15 9DQ has sold alcohol to a child under the age of 18.

Under Section 146 of the Licensing Act 2003 it is a criminal offence to sell alcohol to a person who is under the age of 18 years old.

As well as prosecution the Act allows for an application to be made to the licensing authority for an alcohol licence to be reviewed if it can be shown age restricted products are being sold to children. Such a review could lead to your licence being suspended or revoked ¹.

You don't necessarily have to sell alcohol to a child to lose your licence, the sale of other age restricted products could also result in prosecution and can also lead to your alcohol licence being suspended or revoked if you or your business sell to an underage person.

In order for you and your staff to be compliant with the law, you should always ask young people to produce proof of their age. For example, a driving licence photocard or passport. If a person cannot prove they are over 18, the sale should be refused.

In addition, there are also a number of best practice checks that you and your staff can implement to help prevent the sale of any age restricted products.

'Challenge 25' system:

If a person attempts to purchase an age restricted product and they appear to be under the age of 25, you should ask them to produce proof of their age. If they're unable to prove their age, a sale should then be refused.

Staff training:

You should ensure your staff are fully trained to ensure they're aware which products are age restricted, what the age restriction is, and the action they should take if they believe a person is underage when they attempt to purchase such products.

¹ *West Sussex Trading Standards has a zero tolerance to the sale of alcohol to children. Unless there are exceptional circumstances, where there is sufficient evidence to show an underage sale of alcohol has taken place, we will seek a review of the premises alcohol licence with the aim of having the licence suspended or revoked. The seller and business will also be subject to enforcement action in line with our published enforcement policy.*
www.westsussex.gov.uk/business-and-consumers/trading-standards-advice-for-businesses/

It is important you can prove your staff have understood what is required of them by the law. This can be done by keeping a record of the training and asking members of staff to sign to say that they understand it.

These records should then be checked and signed on a regular basis by the manager or owner of the business.

Maintain a refusals log:

All refusals should be recorded (date, time, incident, product and description of the potential buyer). Maintaining a refusals log will help to demonstrate you and your staff actively refuse sales and have an effective system in place. Refusal logs should be checked by the manager or owner to ensure all members of staff are using them.

Till prompts:

If your system allows it may be possible to use your till to remind staff of age restrictions via a reminder prompt when the barcode of an age restricted product is scanned.

Alternatively, by way of a staff reminder, stickers could be used to cover certain product barcodes.

Signage:

Displaying posters showing age limits for certain products and a statement regarding the refusal of such sales if the person appears to be underage. This may help deter potential purchasers and act as a reminder to staff.

CCTV:

A CCTV system may help act as a deterrent and reduce underage sales. It will also help you to monitor 'blind spots' within your store if it's not possible to change the layout or relocate age restricted products behind, or closer to, the counter.

Please note the above advice is best practice and is not a legal requirement. However, the legislation states if you are charged with an offence of selling an age restricted product to a person under the age of 18, it is a defence if you're able to prove you took all reasonable steps to determine the purchaser's age and that you reasonably believed that the purchaser was not under the age of 18.

Therefore, by carrying out the above best practice checks, it will help show you and your staff are able to satisfy this legal defence and it will help reduce the sale of age restricted products to persons under the age of 18.

Further advice and guidance on age restricted products can be found on the Business Companion website: www.businesscompanion.info/

If you have any queries or require further information, please don't hesitate to contact me.

Kind regards



Natasha Ali
Trainee Trading Standards Officer

Elaine Lucas
Senior Trading Standards Officer
Trading Standards Service
0330 222 7655 (Direct)
01403 249 987 (Fax)
[REDACTED]
www.westsussex.gov.uk

4th Floor Parkside
Chart Way
Horsham
West Sussex
RH12 1XH
01243 642124



Mr M S Chaudhari
Chaudhari Wine Ltd
Trading as Arya Food & Wine
12 Station Road
Burgess Hill
RH15 9DQ

14th March 2023

Dear Mr Chaudhari,

The Police and Criminal Evidence Act 1984

The Licensing Act 2003

West Sussex County Council's Trading Standards Service (WSCCTS) are investigating offences alleged to have taken place at Arya Food and Wine 12 Station Road, Burgess Hill, West Sussex, RH15 9DQ.

On 8th February 2023 at approximately 11:17 Officers from WSCCTS visited Arya Food and Wine as part of a controlled test purchasing operation. Officers witnessed a male employee, who gave his name as Mehulkumar Jesangbhai CHAUDHARY, sell a bottle of WKD Blue alcoholic drink to a child under the age of 18. This sale is contrary to Section 146 of the Licensing Act 2003. It was witnessed that the male, Mr Chaudhary did not ask the volunteer for their age or ask them for any identification.

Under section 146 of the Licensing Act 2003 it is a criminal offence to sell alcohol to a person who is under the age of 18 years old. It is therefore alleged that offences have been committed under Section 146 of the Licensing Act 2003 by both the company, Chaudhari Wine Ltd, and the seller Mr Chaudhary.

Due to the potential contraventions of the above legislation, I now request a formal interview with you, as director of Chaudhari Wine Ltd, in accordance with the **Police and Criminal Evidence Act 1984**. I need to formally put some questions to a representative of the company

about the alleged offences. For convenience, I propose that this interview takes place in writing and enclose questions below. If, however you would prefer for the interview to take place face to face then please let me know.

Please note West Sussex Trading Standards has a zero tolerance to the sale of alcohol to children. Unless there are exceptional circumstances, where there is sufficient evidence to show an underage sale of alcohol has taken place, we will seek a review of the premises alcohol licence with the aim of having the licence suspended or revoked. The seller and business will also be subject to enforcement action in line with our published enforcement policy. www.westsussex.gov.uk/business-and-consumers/trading-standards-advice-for-businesses/

Please return your responses to these questions to me, together with any documentation that you wish to rely on, by the **24th March 2023**. Your responses can be emailed to me at [REDACTED], or sent by post to the address at the top of this letter.

Please note that dependant on your answers I may need to ask supplementary questions. Please feel free to seek appropriate legal advice or representation in connection with this matter as you see fit.

If you or your legal representative wish to discuss this matter further, please do not hesitate to contact me. Please remember that you are under caution and that:

You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.

Yours sincerely,

[REDACTED]

Elaine Lucas

Senior Trading Standards Officer

Enc.

1. Notice to Persons attending voluntary interviews
2. PACE Questions
3. NA/1 – Licensing Act 2003 advice letter from Natasha Ali 14/09/2023

Police and Criminal Evidence Act 1984 – voluntary interview under caution

**Below are the questions that are to be answered and returned by email to
[REDACTED] or posted to:**

Elaine Lucas
Senior Trading Standards Officer
Trading Standards
4th Floor Parkside
Chart Way
Horsham
West Sussex
RH12 1XH

by 24th March 2023

CAUTION:

“You do not have to say anything, but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.”

Do you understand the caution?

Please Sign below to confirm understanding of the caution

Sign.....

1. Please state the company name, company address and confirm if you are a sole trader, a partnership or a limited company?
2. If the business is a partnership, please provide names and addresses of the other partners. If the business is a limited company please provide the Registered company address and registered company number.
3. Please state your full name and date of birth.
4. Please state your position within the company and briefly explain what your role entails.

5. If the business is a company, please confirm that you are authorised to answer these questions on behalf of the company. (Please can you provide written confirmation from the Company?)
6. How many premises do you/the company have? (Please provide name and addresses.)
7. What is the annual turnover of Arya Food and Wine?
8. What is the annual turnover of Arya Food and Wine in relation to the sale of alcohol?
9. Please confirm the name of the personal licence holder?
10. Please confirm the name of the designated premises supervisor?
11. On the 8th February 2023, West Sussex County Council Trading Standards carried out a test purchase of alcohol by a person under the age of 18 years old. The volunteer under our direction purchased a bottle of WKD Blue alcoholic drink from Arya Food and Wine 12 Station Road Burgess Hill, West Sussex, RH15 9DQ. Can you explain how a minor was able to purchase alcohol from your business?
12. What procedures do you have in place to prevent selling age restricted products to children? (Please provide copies of any written procedures.)
13. Who was responsible for drawing up these procedures? (Please state their role within the company.)
14. What training was provided to the seller, Mr Mehulkumar Jesangbhai CHAUDHARY?
15. On 12th September 2022 my colleague, Natasha Ali, visited Arya Food and Wine and provided advice in relation to selling age restricted products. Miss Ali followed up the visit by sending an advice letter to yourself. (see NA/2) Can you confirm that you did receive this letter?
16. Did you take any actions or make any changes after having this advice visit or receiving this letter?
17. Who is the Designated Premises Supervisor?
18. Were you present at Arya Food and Wine 12 Station Road Burgess Hill, West Sussex, RH15 9DQ at approximately 11.17am when the sale of alcohol to the minor took place on the 8th February 2023?
19. The alcohol was sold to the minor by Mehulkumar Jesangbhai CHAUDHARY, does Mehulkumar Jesangbhai CHAUDHARY hold a Personal Licence?

20. How long has Mehulkumar Jesangbhai CHAUDHARY worked for you at the store?
21. What is Mehulkumar Jesangbhai CHAUDHARY's role at the store?
22. What training have you provided to Mehulkumar Jesangbhai CHAUDHARY relating to the prevention of Underage Sales? Please provide copies of any training records.
23. Do you use a refusals register or log to keep a record of attempted underage sales at your shop? If so, please provide a copy of pages covering January and February 2023.
24. Is the refusals register / log used by all staff?
25. Do you monitor the refusals register /log to ensure that all staff are updating it? How often? Is this documented anywhere? Please provide evidence.
26. When was Mehulkumar Jesangbhai CHAUDHARY trained in the use of the refusals register / log?
27. Do you have a written record of the training provided to Mehulkumar Jesangbhai CHAUDHARY? If so please provide this.
28. Do you have a Challenge 25 policy in place at the store?
29. If so, please explain your understanding of this policy?
30. Are staff trained in the Challenge 25 policy? Please provide evidence.
31. Since the visit on 8th February 2023, when the sale of alcohol to an underage volunteer took place, what actions or changes have you made to your business to prevent the sale of age restricted products to minors?
32. Who instigated these changes?
33. Are these actions or changes documented? If so, please provide me with a copy.
34. Does the store have CCTV, and if so do you review the CCTV to ensure that alcohol is not being sold to minors? If so how often is it monitored?
35. Do you use till prompts to remind staff to ask for ID when selling an age restricted product?
36. What, if anything, do you feel Chaudhari Wine Ltd trading as Arya Food and Wine could have done to prevent the sale of alcohol to the underage volunteer on 8th February 2023?

37. Do you accept that Chaudhari Wine Ltd trading as Arya Food and Wine sold alcohol to an individual under the age of 18, contrary to the Licensing Act 2003?

38. Do you wish to add or make any further other comments?

Please ensure that you answer all the questions or indicate no comment.

Please sign and return your responses to me, along with any supporting documents.

Name:

Position:

Signature: Date:

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Licensing Officer,
Mid Sussex District Council,
Oaklands Road,
Haywards Heath,
RH16 1SS

Neighbourhood Licensing Team West Sussex Division

25th April 2023

RE: APPLICATION FOR REVIEW OF THE PREMISES LICENCE FOR ARYA FOOD AND WINE, 12 STATION ROAD, BURGESS HILL, WEST SUSSEX, RH15 9DQ. UNDER THE LICENSING ACT 2003. YOUR REF: LI/23/0503.

I write on behalf of the Chief Officer of Police for Sussex to raise a representation in respect of this review application on the grounds of the prevention of crime and disorder and the protection of children from harm.

This is a review hearing upon the application of West Sussex County Council Trading Standards following a number of interactions with the premises.

Sussex police support the review application by Trading Standards requesting a suspension of the premises licence.

The revised S.182 Guidance to the Licensing Act 2003 (April 2018) issued by The Home Office states:

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

• for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

As both responsible authorities here are not asking for revocation of the licence in the first instance but a suspension of the licence, then we would recommend to the Committee that a suspension period of three months is appropriate.

Sussex Police, Neighbourhood Licensing Team
Centenary House, Durrington Lane, Worthing,
West Sussex. BN13 2PQ
Telephone: 01273 404030

Sussex police are particularly concerned in this case that on the 8th of February 2023, alcohol was sold to a child during a test purchase exercise. Prior to the test purchase exercise carried out by Trading Standards, advice was given to the Management of the premises. The advice revolved around underage sales of alcohol and the sale of other age restricted products.

In addition to a suspension of the premises licence, Sussex police invite the Committee to update the premises licence conditions up to current modern standards by replacing all the existing conditions in annex 2 of the licence with the following:

The prevention of crime and disorder:

Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

- The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
- CCTV footage will be stored for a minimum of 31 days
- The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
- The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy. The time will be amended promptly when British Summer Time starts and ends.
- Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.
- Any breakdown or system failure will be notified to the Police Licensing Department immediately (and retain documentary evidence in the form of an acknowledgement or receipt that this has been done) & remedied as soon as practicable.
- In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

All off sales of alcohol will be made in sealed containers.

Spirits will be stored and displayed behind the server/service counter out of the reach of the public.

For the Protection of Children from Harm:

The premises will operate a “Challenge 25” policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, driving licenses with a photograph, photographic military ID or proof of age cards bearing the “PASS” mark hologram, official photographic identity cards issued by EU states bearing a hologram or ultraviolet feature.

Sussex Police, Neighbourhood Licensing Team
Centenary House, Durrington Lane, Worthing,
West Sussex. BN13 2PQ
Telephone: 01273 404030

Suitable and sufficient signage advertising the “Challenge 25” policy will be displayed in prominent locations in the premises, including the point of sale and the area where the alcohol is displayed.

The Premises Licence Holder shall ensure that all staff members (including family members, friends and all temporary staff) engaged or to be engaged, in selling alcohol at the premises shall receive induction training. This training will take place prior to the selling of such products:

- the lawful selling of age restricted products
- refusing the sale of alcohol to a person who is drunk

Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed three months, with the date and time of the verbal reinforcement/refresher training documented.

All such training and refresher training undertaken by staff members shall be fully documented and signed and dated by both the employee and the DPS. All training records shall be kept on the premises and made available to officers of any responsible authority upon request.

The premises shall at all times maintain and operate an incident log and refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor (with the date and time of each review documented) at intervals of no less than 4 weeks and feedback given to staff as relevant. This refusals book will be kept at the premises and made available to officers of any responsible authority upon request. All incidents recorded in the log/refusals register will be retained on the premises for a minimum of twenty-four months.

Feedback will be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.

A list of staff members who are authorised to sell alcohol on the premises will be kept. This shall be endorsed by the DPS with the date of such authorisation commences.

Conditions for alcohol delivery service:

Alcohol deliveries will only be made to a residential or business address and not to a public place.

The age verification policy (including challenge 25) shall clearly be advertised at each stage of the order and on all advertising. All forms of advertising and promotional literature detailing the delivery service (including internet sites and flyers/leaflets) will clearly state that alcohol should only be purchased for delivery to intended recipients (or persons who will accept delivery on behalf of the named recipient) who are aged over 18. Customers will be reminded that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person aged under 18.

At the time the order is placed a declaration will be required from the person placing the order that that person is aged 18 years or over, and that the intended recipient are over 18 years or over. This process will be documented, (tick box before proceeding, record of verbal acknowledgement or similar). These records must be retained for no less than twelve months and produced on request to an officer of a Responsible Authority.

Sussex Police, Neighbourhood Licensing Team
Centenary House, Durrington Lane, Worthing,
West Sussex. BN13 2PQ
Telephone: 01273 404030

For deliveries where the alcohol is delivered by a third party, the alcohol is concealed in a secure sealed package, and the DPS has no direct supervision or control over the delivery (such as an independent courier or Royal Mail), there cannot be an age verification challenge on delivery, but the above conditions will be followed.

For deliveries made directly by the DPS or their employees, staff or agent or persons instructed by the DPS/PLH, the person accepting the delivery must be aged 18 years or over. Where the person accepting delivery appears to be under 25, a recognised photographic ID must be produced prior to delivery. No ID, no delivery.

Where the premises contracts a third party to deliver alcohol on their behalf and the person collecting the alcohol from the premises delivers it directly to the customer within a short timescale (such as Deliveroo, Just Eats), the premises will ensure that the third party:

- only employs delivery employees or agents aged 18 and over;
- is aware that alcohol is included in the delivery;
- that the delivery person actively engages with the person receiving delivery and operates a challenge 25 policy rather than just handing the delivery over;
- that in the event that the recipient of the alcohol is challenged for ID and does not provide appropriate and valid ID, the delivery person will retain the alcohol and return it to the premises.

*If the premises does not want to accept the alcohol delivery conditions, then we would be content with an alternative condition that there will be no alcohol delivery services provided by the premises either directly or via third party delivery providers.

Yours sincerely,

Signature Redacted

**Inspector Mike Butler CB238
West Sussex Licensing Inspector
Sussex Police**

**Sussex Police, Neighbourhood Licensing Team
Centenary House, Durrington Lane, Worthing,
West Sussex. BN13 2PQ
Telephone: 01273 404030**

Suggested Conditions to replace current conditions at Annex 2 of the Premises Licence

Sussex Police

The prevention of crime and disorder:

1. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.
 - The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
 - CCTV footage will be stored for a minimum of 31 days
 - The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
 - The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy. The time will be amended promptly when British Summer Time starts and ends.
 - Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.
 - Any breakdown or system failure will be notified to the Police Licensing Department immediately (and retain documentary evidence in the form of an acknowledgement or receipt that this has been done) & remedied as soon as practicable.
 - In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.
2. All off sales of alcohol will be made in sealed containers.
3. Spirits will be stored and displayed behind the server/service counter out of the reach of the public.

For the Protection of Children from Harm:

4. The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, driving licenses with a photograph, photographic military ID or proof of age cards bearing the "PASS" mark

hologram, official photographic identity cards issued by EU states bearing a hologram or ultraviolet feature.

5. Suitable and sufficient signage advertising the “Challenge 25” policy will be displayed in prominent locations in the premises, including the point of sale and the area where the alcohol is displayed.
6. The Premises Licence Holder shall ensure that all staff members (including family members, friends and all temporary staff) engaged or to be engaged, in selling alcohol at the premises shall receive induction training. This training will take place prior to the selling of such products:
 - the lawful selling of age restricted products
 - refusing the sale of alcohol to a person who is drunk

Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed three months, with the date and time of the verbal reinforcement/refresher training documented.

7. All such training and refresher training undertaken by staff members shall be fully documented and signed and dated by both the employee and the DPS. All training records shall be kept on the premises and made available to officers of any responsible authority upon request.
8. The premises shall at all times maintain and operate an incident log and refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor (with the date and time of each review documented) at intervals of no less than 4 weeks and feedback given to staff as relevant. This refusals book will be kept at the premises and made available to officers of any responsible authority upon request. All incidents recorded in the log/refusals register will be retained on the premises for a minimum of twenty-four months.

Feedback will be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.

9. A list of staff members who are authorised to sell alcohol on the premises will be kept. This shall be endorsed by the DPS with the date of such authorisation commences.

Conditions for alcohol delivery service:

10. (If the premises does not want to accept the alcohol delivery conditions, then we would be content with an alternative condition that there will be no alcohol delivery services provided by the premises either directly or via third party delivery providers)

Alcohol deliveries will only be made to a residential or business address and not to a public place.

The age verification policy (including challenge 25) shall clearly be advertised at each stage of the order and on all advertising. All forms of advertising and promotional literature detailing the delivery service (including internet sites and flyers/leaflets) will clearly state that alcohol should only be purchased for delivery to intended recipients (or persons who

will accept delivery on behalf of the named recipient) who are aged over 18. Customers will be reminded that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person aged under 18.

At the time the order is placed a declaration will be required from the person placing the order that that person is aged 18 years or over, and that the intended recipient are over 18 years or over. This process will be documented, (tick box before proceeding, record of verbal acknowledgement or similar). These records must be retained for no less than twelve months and produced on request to an officer of a Responsible Authority.

For deliveries where the alcohol is delivered by a third party, the alcohol is concealed in a secure sealed package, and the DPS has no direct supervision or control over the delivery (such as an independent courier or Royal Mail), there cannot be an age verification challenge on delivery, but the above conditions will be followed.

For deliveries made directly by the DPS or their employees, staff or agent or persons instructed by the DPS/PLH, the person accepting the delivery must be aged 18 years or over. Where the person accepting delivery appears to be under 25, a recognised photographic ID must be produced prior to delivery. No ID, no delivery.

Where the premises contracts a third party to deliver alcohol on their behalf and the person collecting the alcohol from the premises delivers it directly to the customer within a short timescale (such as Deliveroo, Just Eats), the premises will ensure that the third party:

- only employs delivery employees or agents aged 18 and over;
- is aware that alcohol is included in the delivery;
- that the delivery person actively engages with the person receiving delivery and operates a challenge 25 policy rather than just handing the delivery over;
- that in the event that the recipient of the alcohol is challenged for ID and does not provide appropriate and valid ID, the delivery person will retain the alcohol and return it to the premises.

WSCC Public Health

Individual members of staff should receive refresher training at least every three months, a record of which should be signed by the employee and countersigned by the licence holder.

The refusals log should be reviewed and signed by the licence holder, monthly.

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Licensing Team
 Mid Sussex District Council
 Oaklands
 Oaklands Road
 Haywards Heath
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 RH16 1SS

2nd May 2023

Dear Sir or Madam,

Re: Chaudhari Wine Ltd T/A Arya Food & Wine, 12 Station Road, RH15 9DQ

The West Sussex County Council (WSSCC) Public Health Directorate wishes to support the application by Trading Standards to review the licence of: Chaudhari Wine Ltd T/A Arya Food & Wine, 12 Station Road, RH15 9DQ.

The Public Health Directorate concurs that the Licensing Objectives of:

- (1) The Prevention of Crime and Disorder
- (4) The Protection of Children from Harm

are not being promoted, as demonstrated by the illegal sale of alcohol to a person under the age of 18, as part of a Trading Standards 'test purchase' operation.

The sale of alcohol to children is of extreme concern, considering the strong evidence demonstrating the harms caused by alcohol to children and young people. It is noted that the premises licence holder had recently received both verbal and written advice about the sale of age restricted products, including advice on staff training. The subsequent sale of alcohol to a person under the age of 18, as part of a Trading Standards 'test purchase' operation indicates that this advice had not been acted upon and suggests a disregard for the law. The WSSCC Public Health Directorate is disappointed to learn about the sale of alcohol to a child and endorse the recommendations made in the review application by Trading Standards.

Supporting Evidence

Harms, caused by alcohol, to children and young people

In 2009, the Chief Medical Officer of England published official guidance on alcohol focusing specifically on children and young people¹. It recommends that an alcohol-free childhood is the healthiest and best option². The guidance is based on a body of evidence that alcohol consumption during any stage of childhood can have a harmful effect on a

¹ [Alcohol consumption by children and young people - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/404222/Alcohol_consumption_by_children_and_young_people_-_GOV.UK.pdf)

² [Alcohol consumption by children and young people - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/404222/Alcohol_consumption_by_children_and_young_people_-_GOV.UK.pdf)

child's development. Furthermore, alcohol use during the teenage years is related to a wide range of health and social problems, and young people who begin drinking before the age of 15 are more likely to experience problems related to their alcohol use³. Drinking at a young age, and particularly heavy or regular drinking, can result in physical or mental health problems, impair brain development, and put children at risk of alcohol-related accident or injury. More broadly it is also associated with missing or falling behind at school, violent and antisocial behaviour, and unsafe sexual behaviour⁴.

According to guidance provided on NHS.UK, the health risks associated with drinking alcohol before the age of 18 are as follows:

- Drinking alcohol can affect the normal development of vital organs and functions in children under 18, including the brain, liver, bones and hormones.
- Beginning to drink before age 14 is associated with increased health risks, including alcohol-related injuries, involvement in violence, and suicidal thoughts and attempts.
- Drinking at an early age is also associated with risky behaviour, such as violence, having more sexual partners, pregnancy, using drugs, employment problems and drink driving⁵.

National prevalence of alcohol use by children and young people

National data indicates that alcohol remains the substance most commonly used by young people. In a 2021 national survey, 40% of school pupils said they had ever had an alcoholic drink⁶, a figure which may be broadly applied to the West Sussex population of young people.

Local alcohol-related hospital admissions among children and young people

Each year in West Sussex, there are more than 65 alcohol-specific hospital admissions (where the hospital admission is wholly attributable to alcohol) among under 18s. Since 2015/16 the rate of these admissions has increased, having previously followed a downward trend. The rate of these admissions in West Sussex (36.9 per 100,000 population, 2018/19-2020/21) is significantly higher than that rate for England overall (29.3 per 100,000)⁷.

In Mid Sussex alcohol-specific admissions among under 18s have also shown an increase since 2016/17 and the comparable rate for the district is 35.2 admissions per 100,000 under 18s which is also above rate for England overall.

Under 18s using specialist alcohol treatment services in West Sussex

The latest data for 2020/2021 shows that 40% of under 18s in the West Sussex specialist children and young people's drug and alcohol service were receiving treatment for alcohol-related substance misuse.

³ [Alcohol consumption by children and young people - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/alcohol-consumption-by-children-and-young-people)

⁴ [Part 5: Alcohol drinking prevalence and consumption - NHS Digital](#)

⁵ <https://www.nhs.uk/common-health-questions/childrens-health/should-my-child-drink-alcohol/>

⁶ [Part 5: Alcohol drinking prevalence and consumption - NHS Digital](#)

⁷ [Local Alcohol Profiles for England - Data - OHID \(phe.org.uk\)](#)

Given the harm caused to children and young people by alcohol in West Sussex and high rate of alcohol harm in young people in Mid Sussex District, it is especially disappointing to note that staff at Arya Food & Wine sold alcohol to a child. Whilst the licensee confirms that a Challenge 25 policy is in place, this is not being adhered and suggests a lack of effective staff training.

West Sussex Public Health are supportive of the recommendations of Trading Standards and in addition, respectfully recommend that the committee consider applying the following conditions to promote the licensing objectives:

- i) Individual members of staff should receive refresher training at least every three months, a record of which should be signed by the employee and countersigned by the licence holder.
- ii) The refusals log should be reviewed and signed by the licence holder, monthly.

Yours sincerely,

Signature Redacted

Holly Yandall
Public Health Lead for Alcohol and Drugs

On behalf of the Director of Public Health

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LICENSING COMMITTEE - PROCEDURE AT HEARINGS

This is the procedure to be followed at Licensing Sub-Committee hearings when the Sub-Committee is exercising the functions delegated by the Licensing Committee under the Licensing Act 2003 as agreed by the Licensing Committee on 2nd February 2005.

1.0 AT THE HEARING

- 1.1 The hearing shall take place in **public**, except where (as defined in the Hearings Regulations) the public interest requires the public's exclusion.

2.0 Right of attendance, assistance and representation

- 2.1 A party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

3.0 Procedure at the Hearing

- 3.1 The Chairman shall at the beginning of the hearing introduce the members of the Sub-Committee, invite the parties to identify themselves and then explain to the parties the procedure which the Sub-Committee intends to follow (this procedure).
- 3.2 The Sub Committee shall then consider any request made by a party for permission for another named person to appear at the hearing, such permission shall not be unreasonably withheld.
- 3.3 The hearing shall take the form of a **discussion** led by the Authority and **cross-examination** shall **not** be permitted **unless** the sub-committee considers that cross-examination is required for it to consider the representation, application or notice as the case may require.
- 3.4 The Sub-Committee must allow the parties an equal maximum period of time in which to exercise their rights to respond to a point or points of clarification and give further information in support of their application, representations or notice; question any other party (if permission has been given) and in which to address the sub-committee.

Members of the Licensing Sub-Committee may ask any question of any party or other person appearing at the hearing.

The Licensing Sub-Committee may take into account documentary or other evidence produced by a party before the hearing, or produced at the hearing if all other parties agree.

The Licensing Sub-Committee shall disregard any information given by a party or by any person to whom permission to appear at the hearing has been given by the Authority, which is not relevant to the Application representations or notice, (as applicable) or the promotion of the licensing objectives, or if the hearing is considering a notice given by the Chief Officer of police, which is not relevant to the crime prevention objective.

3.5 The Sub-Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:

- a) refuse to permit that person to return, or
- b) permit him to return only on such conditions as the authority may specify,

but such a person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

3.6 The Sub-Committee may, after hearing the representations of the parties, withdraw from the room to make their deliberations.

4.0 Determination of applications

4.1 The Sub-Committee shall make its determination at the conclusion of the hearing, or otherwise as prescribed by Regulation. The Secretary of State's Guidance states that the determination shall be 'given forthwith and reasons provided to support the determination'.

5.0 Notification of Determination

The authority shall notify a party of its determination forthwith, or otherwise if the Licensing Act 2003 so provides. Notification to a party will include a statement of the Sub-Committee's reasons for the decision and will be accompanied by information about the party's right of appeal against the determination.

6.0 Failure of parties to attend the hearing

6.1 If a party has informed the licensing authority that he/she does not intend to attend or be represented at the hearing, the hearing may proceed in his/her absence.

6.2 If a party who has not so indicated fails to attend or be represented at a hearing at the Sub-Committee may:-

- where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
- hold the hearing in the party's absence.

6.3 Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee shall consider at the hearing the application, representation or notice made by that party.

6.4 Where the Sub-Committee adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

7.0 Record of proceedings

7.1 A record of the hearing shall be kept for six years from the date of determination or, where an appeal is brought against the determination, the disposal of the appeal. The record must be in a permanent and intelligible form.

8.0 Irregularities

- 8.1 Any irregularity arising as a result of any failure to comply with the Hearing's Regulations **before** the authority had made a determination, does **not** render the proceedings void, and the authority shall, if it considers that any person may have been prejudiced as a result of the irregularity, take such steps as it thinks fit to cure the irregularity **before** reaching its determination.
- 8.2 Clerical mistakes in any document recording a determination of the authority or errors arising in such document from an accidental slip or omission may be corrected by the authority.

NOTES

Human Rights

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a convention right. The Sub-Committee will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following provisions:-

- Article 6 – in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 – everyone has the right to respect for his/her home and private and family life
- Article 1 of the first protocol – every person is entitled to the peaceful enjoyment of his/her possessions (this includes the possession of a licence).

Members Interests

Members of the Sub-Committee shall consider whether they have a personal and/or prejudicial interest in the application or case before them in accordance with the requirements of the Code of Conduct for Mid Sussex District Council.

All interests should be disclosed to the Licensing Sub-Committee and recorded. Members with a prejudicial interest must take no part in the hearing and must withdraw from the room.

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