

## 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](mailto:jon.bryant@midsussex.gov.uk) Tel: 01444 477428  
Wards Affected: East Grinstead - Town  
Key Decision No  
Report To: Liquor Licensing Panel

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### Purpose of Report

- 1 To provide information in order that the Panel can determine an application for the review of a Premises Licence 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 at London Road Food and Wine, 65 London Road, East Grinstead, RH19 1EQ. 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 review cites the sale of alcohol to a child during a test purchase operation conducted by Trading Standards on the 27th of June 2023 and the subsequent enquiries that were made into the incident. 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.
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### Background

- 5 The premises concerned is at 65 London Road, East Grinstead, RH19 1EQ and is known as London Road Food and Wine. It has been licensed for the sale of alcohol for consumption off the premises since August 2014 under Licence Number PWA0487.
- 6 The Premises Licence Holder is Mr Ibrahim Kahraman and the Designated Premises Supervisor (DPS) is his brother, Mr Mehmet Kahraman.
- 7 The current Premises Licence and conditions is attached at Appendix 2.

The premises is currently licensed for the following licensable activities:

Licensable Activity	Timings
Sale by retail of alcohol	Everyday 08:00 - 23:00

- 8 The current opening hours of the premises are:

Everyday: 07:00 - 23:00

- 9 The premises operates as a local convenience store in East Grinstead situated in the town centre. Photos of the store are attached at Appendix 3.
- 10 There are a number of additional conditions attached to the licence in addition to the mandatory licence conditions. These are comprehensive and include:
  - 10.1 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 25 (or the age set by the policy) will be asked for photographic ID to prove their age.
  - 10.2 The only form of ID that will be accepted are passports, driving licences with a photograph or Citizen card or validated proof of age cards bearing the 'PASS' mark hologram. The list of approved ID may be amended or revised subject to prior written agreement with Sussex Police.
  - 10.3 Signage advertising the 'Challenge' policy will be displayed in prominent locations in the premises and shall include the point of sale as a minimum.
  - 10.4 A written record of those authorised to make sales of alcohol shall be kept. This shall be endorsed by the DPS with the date such authorisation commences. This shall be made available immediately upon request to the Local Authority Licensing Officers and Sussex Police Licensing Officers.
  - 10.5 All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act 2003, 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 and refresher training thereafter at intervals of no more than six (6) months. All restricted sales training undertaken by staff members shall be fully documented and signed by the employee and the DPS. All training records shall be made immediately available upon request to the Local Authority Licensing Officers and Sussex Police Licensing Officers.
- 11 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 they conducted on the 27<sup>th</sup> of June 2023.
- 12 They cite that they had previously received several complaints, alleging the location was selling e-cigarettes to individuals aged under 18.
  - 12.1 On the 2<sup>nd</sup> of June 2023, a Trading Standards Officer conducted an advice visit in relation to selling age restricted products. The Trading Standards Officer spoke to the Premises Licence Holder, Mr Ibrahim Kahraman, on the phone about the underage sales advice visit. Several points around age restricted products and training were discussed during the advice visit.
  - 12.2 On the 5<sup>th</sup> of June 2023, a follow up advice letter, which reiterated what was discussed from the advice visit, was sent to Mr Kahraman's email address.
- 13 On the 27<sup>th</sup> of June 2023 as part of an underage sales operation a 16-year-old volunteer selected a WKD Blue bottle of alcohol and took it to the till. A female working behind the till area sold the WKD Blue bottle of alcohol to the child volunteer, without asking them for any identification.

- 13.1 Trading Standards Officers immediately returned the shop to explain to the seller about the test purchase. Mr Kahraman was present when Trading Standards Officers entered the shop and listened while Trading Standards officers were talking to the seller, Ms Bushra Mohammed Jankeer. She stated that she did not know the drink she sold to the volunteer was alcohol, she did not remember the volunteer and was unable to say what age they thought the volunteer was. She was aware of the 'Think 25' Policy. There was no till prompt for the alcohol product and the refusal logs could not initially be located. When the seller was asked about any training, she confirmed she has had training and signed something, however there were no records of this when checked.
- 13.2 Trading Standards Officers questioned Mr Kahraman, as to why there was no records for the sellers training. Mr Kahraman explained that the seller usually stacks shelves and that is the reason there were no training record for her.
- 14 West Sussex Trading Standards contend they do not believe the licensing objectives are being continually upheld at London Road Food and Wine and deem it both proportionate and necessary to invite the committee to consider a review of the premises licence, to limit further criminal activity by this licence holder and to act as a deterrent to other operators considering such illegal conduct.
- 15 As underage age advice had been provided before the sale of alcohol was made to a Trading Standards volunteer, the Responsible Authority suggests an appropriate outcome of the review would be a three-month suspension and further conditions added to the licence. Full details of the Trading Standards investigation are attached to the report at Appendix 4.
- 16 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 5. 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 had received advice regarding under-age sales a short time prior to the incident and despite this recent advice, alcohol was sold to a child.
- 16.1 They highlight that 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 rates for England overall.
- 16.2 They state that they are concerned by the inadequate staff training procedures at the premises. The apparent lack of training amongst some staff members is putting children at risk of harm from alcohol. The failure to keep adequate training records suggests further still that the premises is not taking seriously their responsibility to uphold the Licencing Objectives.
- 16.3 They further state that from a Public Health perspective, it is disappointing that despite previous advice provided by Trading Standards, alcohol was sold to a child. Given the serious nature of this offence and the harm caused to children by alcohol, West Sussex Public Health are supportive of the recommendations made by Trading Standards which seek to limit further criminal activity and to promote the licencing objectives.

- 17 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 6.
- 17.1 They detail that Sussex Police are particularly concerned in this case that on the 27<sup>th</sup> of June 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.
- 17.2 They comment that as a result of receiving details of this review application they attended the premises on the 28<sup>th</sup> of September 2023 to conduct a licensing visit.
- 17.3 The Designated Premises Supervisor (DPS) was not on site, so a member of staff was spoken to. The following observations were made:
- The member of staff had very little knowledge of the licensing legislation which was of concern as the member of staff was in a position of the sale of alcohol.
  - The member of staff could not locate part A of the Premises Licence and stated that she had never seen the document.
  - The member of staff stated that she had no formal training. The member of staff stated the only training that she has had was verbal instructions not to sell age related products to children. The member of staff was aware of challenge 25.
  - There were training records for a number of members of staff, but the records were not documented and there were no dates of training or refresher training as per the conditions of the premises licence. It would appear from one document that the last training was conducted on the 24<sup>th</sup> of October 2021.
  - Part B of the premises licence was displayed correctly.
  - The member of staff produced a folder with the following documents - DPS authorisation form, Written age verification policy and training records as above.
  - Challenge 25 posters were on display, one at the point of sale and one where the alcohol was displayed.
  - All spirits were on display behind the counter. All other alcohol products were displayed in a small chiller in view of the till.
  - CCTV was working and appeared in good order, the correct time and date displayed.
  - A refusals log was produced by the member of staff. There were numerous entries on the log, the last being the 21<sup>st</sup> of September 2023.
  - During the visit a further member of staff returned to the premises after a break. This member of staff had an improved knowledge of the running of the premises and the Licensing legislation.
  - It was clearly evident that there was a distinct lack of knowledge at the premises and training by the DPS would improve the situation and prevent any future sales of age restricted products. No other issues identified at the premises.
- 17.4 Sussex Police support the review application and recommend to the Committee that they consider a suspension period of three months is appropriate. In addition to a suspension of the premises licence, Sussex Police invite the Committee to consider updating the premises licence

conditions by replacing all the existing conditions in the operating schedule of the licence with proposed conditions detailed at Appendix 7.

## 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 [F1 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. Prevention of Harm to children and young persons

21 Guidance Issued Under Section 182 of the Licensing Act 2003:

2.34

Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.

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.

11.16

The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

#### 11.17

The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

#### 11.18

However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.....

#### 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.

#### 11.23

Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's

decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

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:

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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;

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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 a licensable activity on or 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 application

Appendix 5 – WSCC Public Health Representation

Appendix 6 – Sussex Police Representation

Appendix 7 – Police suggested conditions