

## LICENSING ACT PANEL - 8 December 2022

### LICENSING ACT PANEL

8 DECEMBER 2022

Present: Councillors: J Butler (Chairman), P Hogarth MBE and M McCarthy

Officers: David Acton (Democratic Services), Anne Bettison (Licensing), Santokh Gill (Legal), and Richard Staveley (Trading Standards).

#### 1. REVIEW OF PREMISES LICENCE - TIWANA'S, 101-103 ALDER DRIVE, CHELMSLEY WOOD, B37 7QG

The Licensing Act Panel was invited to review the Premises Licence granted in respect of Tiwana's, 101-103 Alder Drive, Chelmsley Wood, B37 7QG.

The Licensing Officer detailed the facts of the case and the report as submitted was taken as read. Members received a representation from the Trading Standards and Environment Manager detailing the background and outcomes of a test purchasing exercise.

The Panel heard from Mr Sivarajah (Premises Licence holder) explaining the measures he had taken since the visit, and was intending to take, to ensure the licensing objectives would be complied with. He confirmed that he was in agreement with the proposed officer conditions detailed within the report.

The Premises Licence holder agreed that external training for all staff was necessary, including himself. He was confident that he could arrange 'Challenge 25' training very quickly. He also confirmed that the CCTV conditions were satisfied.

#### RESOLVED

The Panel, having carefully considered the report and listened to the Trading Standards and Environment Manager and Mr Sivarajah, were very concerned that there had been a previous known underage sale of alcohol which resulted in a child being admitted to hospital from the effects of excessive alcohol consumption.

Members were shocked that despite officers visiting the premises on three occasions to discuss the sale of alcohol to children, it still resulted in another underage sale following the test purchase exercise in August 2022.

Members noted that officers were still considering a potential criminal prosecution of the sale of alcohol to a person under 18. This was a serious breach of the licensing objectives relating to the prevention of crime and disorder, and protection of children from harm. It was also concerning that there were delays and difficulties with allowing officers to view the CCTV.

Members asked officers to carry out further random underage exercises at the premises during the next twelve months.

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To help prevent further breaches of the licensing objectives the Panel added the following conditions to those detailed in the report and described below:-

- That there be no sales of alcohol by any person unless that person has produced a copy of their Certificate of Training from 'Challenge 25', or equivalent provider, to the Council's Licensing Team Leader; and
- There shall be no sale of alcohol until officers have inspected the CCTV system and are satisfied that CCTV and 'Challenge 25' conditions have been met.

### **Prevention of Crime and Disorder**

CCTV covering the interior and exterior of the premises will be installed and shall be kept operational at all times the premises are open to the public;

- It shall be capable of taking a head and shoulders shot of persons entering the premises, of recording images to an evidential standard in any light and be capable of storing images for a minimum of 31 days;
- All staff who may work front of house shall be trained to operate the CCTV system and download images;
- At least one member of staff trained to operate the CCTV system and download images shall be on duty at all times the premises are open to the public. Footage shall be shown to the police and screenshots provided to them on request. Copies of downloaded images shall be provided to the police on a USB stick, CD or other acceptable means as soon as possible and in any case within 24hours of the request;

All staff who work front of house will be trained for their role on induction, training must include their roles and responsibilities around the licensing objectives. They must be given refresher training every six months and sign to say they have received such training. Written training records will be kept for each staff member and be produced to police and authorised council officers on request. Training will include identifying persons under 25, making a challenge, acceptable proof of age and checking it, making and recording a refusal, avoiding conflict and responsible alcohol retailing;

An incident book shall be kept at the premises, and made available to the police or authorised council officer, which will record the following:

- All crimes reported;
- Any complaints received;
- Any faults in the CCTV;
- Any refusal in the sale of alcohol;
- Any visit by a relevant authority or emergency service.

Notices will be prominently displayed by the entry/exit door and point of sale (as appropriate) advising customers:

- That CCTV and Challenge 25 are in operation.

### **Protection of Children from harm**

Challenge 25 shall be operated as the proof of age policy and only a valid passport, photo driving licence, HM Forces photographic ID card or proof of age card with the PASS logo or hologram on it, may be accepted as proof of age.

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All refusals of the sale of alcohol shall be recorded in the refusals section of the incident book (or electronically if available). The incident book shall be kept and produced to police and authorised council officer on request.

Notices for Challenge 25 will be prominently displayed by the entry/exit doors and point of sale.

Unless an EPOS (electronic point of sale) system with an automatic proof of age check reminder incorporated in it is in use a manual prompt will be displayed by the till(s) to remind staff to check proof of age where appropriate.

### **2. REVIEW OF PREMISES LICENCE GRANTED IN RESPECT OF TANDA'S STORES, 71 SILVER BIRCH ROAD, KINGSHURST, B37 6AS**

The Licensing Act Panel was invited to review the Premises Licence granted in respect of Tanda's Stores, 71 Silver Birch Road, Kingshurst, B37 6AS.

The Licensing Officer detailed the facts of the case and the report as submitted was taken as read. Members received a representation from the Trading Standards and Environment Manager detailing the background and outcomes of a test purchasing exercise.

The Panel heard from Mr Curtis (representing Mrs Kaur) explaining the comprehensive measures that had been taken since the visit to ensure the licensing objectives would be fully complied with. Mr Curtis went through the proposed officer conditions and under the Prevention of Crime and Disorder objective, requested that the proposed condition 'All staff who may work front of house shall be trained to operate the CCTV system and download images' be removed as the condition below it covered operating the CCTV at all times.

The premises licence holder confirmed she was in agreement with the proposed officer conditions, detailed within the report, except for the one condition which her solicitor deemed unnecessary and, answered questions from the Panel.

The Trading Standards and Environment Manager advised that with the major improvements that appeared to have been made it was no longer felt a licence suspension was necessary.

#### RESOLVED

The Panel, having carefully considered the report and listened to the Trading Standards and Environment Manager, Mr Curtis and Mrs Kaur, were very concerned that there had been a previous known underage sale of a vaping product in August 2022. It was very disappointing that during a subsequent underage exercise alcohol was served to a young person under 18 despite officers visiting the store and reminding them of their obligation to prevent underage sales. Members noted that there was just one entry in the refusals book and a lack of signage regarding underage sales.

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There had clearly been breaches of licensable objectives such as protection of children from harm and prevention of crime – the underage sale being a criminal offence. Members noted that officers were still considering a potential criminal prosecution of the sale of alcohol to a person under 18.

Members were pleased to hear and read that the premises licence holder had arranged 'Challenge 25' training for all staff members, produced an handbook and ensured that the CCTV conditions were satisfied.

Members asked officers to carry out further random underage exercises at the premises during the next twelve months.

The Panel were content to remove the condition as requested by Mr Curtis, and also replaced 'police' on any condition with 'any responsible authority'.

To prevent further breaches of the licensing objectives the Panel confirmed the following conditions:-

### **Prevention of Crime and Disorder**

CCTV covering the interior and exterior of the premises will be installed and shall be kept operational at all times the premises are open to the public;

- It shall be capable of taking a head and shoulders shot of persons entering the premises, of recording images to an evidential standard in any light and be capable of storing images for a minimum of 31 days;
- At least one member of staff trained to operate the CCTV system and download images shall be on duty at all times the premises are open to the public. Footage shall be shown to any responsible authority and screenshots provided to them on request. Copies of downloaded images shall be provided to any responsible authority on a USB stick, CD or other acceptable means as soon as possible and in any case within 24hours of the request;

All staff who work front of house will be trained for their role on induction, training must include their roles and responsibilities around the licensing objectives. They must be given refresher training every six months and sign to say they have received such training. Written training records will be kept for each staff member and be produced to any responsible authority on request. Training will include identifying persons under 25, making a challenge, acceptable proof of age and checking it, making and recording a refusal, avoiding conflict and responsible alcohol retailing;

An incident book shall be kept at the premises, and made available to any responsible authority, which will record the following:

- All crimes reported;
- Any complaints received;
- Any faults in the CCTV;
- Any refusal in the sale of alcohol;
- Any visit by a relevant authority or emergency service.

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Notices will be prominently displayed by the entry/exit door and point of sale (as appropriate) advising customers:

- That CCTV and Challenge 25 are in operation.

### **Protection of Children from harm**

Challenge 25 shall be operated as the proof of age policy and only a valid passport, photo driving licence, HM Forces photographic ID card or proof of age card with the PASS logo or hologram on it may be accepted as proof of age.

All refusals of the sale of alcohol shall be recorded in the refusals section of the incident book (or electronically if available). The incident book shall be kept and produced to any responsible authority on request.

Notices for 'Challenge 25' will be prominently displayed by the entry/exit doors and point of sale.

Unless an EPOS (electronic point of sale) system with an automatic proof of age check reminder incorporated in it is in use a manual prompt will be displayed by the till(s) to remind staff to check proof of age where appropriate.