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West Sussex Division

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14th April 2022

Mr Simon Jones
Licensing Unit
Adur and Worthing Councils
Portland House
Richmond Road
Worthing
BN11 1LF

Dear Mr Jones,

RE: APPLICATION FOR REVIEW OF THE PREMISES LICENCE FOR OM FOOD & WINE, 123 CLIFTON ROAD, WORTHING, BN11 4DP, PREMISES LICENCE NO. LN/100001408.

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

West Sussex County Council Trading Standards have applied for a review of this premises licence, and are asking for revocation of the licence. Sussex police fully support the stance of Trading Standards and their request for revocation of the licence for OM Food & Wine. We set out below our evidence in support of our revocation request.

The Committee will note in the Trading Standards review application that the premises is stated as Clifton Food & Wine, which is a trading name of OM Food & Wine at 123 Clifton Road.

The premises was visited by police licensing officers on the 21st February 2020 following reports of shoplifters by the Designated Premises Supervisor [DPS] [REDACTED]

[REDACTED] The conditions in annexe 2 of the premises licence were checked, and it was confirmed that the CCTV hard drive only recorded footage for twelve days and not 31 days as per the condition. No refusals register which is also a condition was produced when requested. There was no incident log which whilst not an express condition on the licence is good practice, and words of advice were given to create and maintain an incident log. No challenge 21 posters were on display as per the conditions, so challenge 25 posters were provided to [REDACTED] at the time of the visit.

On the 20th June 2020, Police Community Support Officers in Worthing were called around lunchtime by Sussex Ambulance to attend Marine Parade, Goring seafront. Ambulance had been called to attend three children, a boy aged fourteen and two girls aged fourteen years of age, who were unwell due to consumption of alcohol. The officers who attended described the three children as "very drunk". The children had alcohol in their possession, and all three children were passed into the care of their parents after being medically assessed by paramedics.

The three children were questioned about the alcohol in their possession, and they stated that they had been supplied the alcohol (Glen Vodka, Echo Falls rose wine and a carton of pineapple juice) by OM Food & Wine earlier that morning. The three children then went to Goring seafront to consume the alcohol. The fourteen year old boy stated that he had not been asked for any age identification by the shop when purchasing the alcohol. What was particularly concerning was that the boy was clearly under 18, and the two girls with him looked at most their age of fourteen years and potentially even younger.

Officers immediately attended OM Food & Wine and asked to view the premises CCTV for that morning. The CCTV footage clearly showed at 11.38 the boy at the till purchasing the alcohol, with the two girls standing just behind him. It was noted that OM Food & Wine sold exactly the same brands of alcohol and pineapple juice as those taken from the three children on Goring seafront. The Designated Premises Supervisor for the shop, [REDACTED] was working in the shop at the time on his own. He admitted selling the alcohol to the fourteen year old boy. The attending officers asked to view the shop refusals book, and noted (remembering that this was the 20th June 2020) that the last entry in the refusals book was dated 31st May 2019, which was thirteen months earlier.

Sussex police subsequently liaised directly with the parents of the fourteen year old boy who had illegally been sold the alcohol by the premises. We have a copy of his passport which confirms his date of birth as 7th July 2005. So at the time of the sale the boy was aged fourteen and seventeen days before his fifteenth birthday. As the boy and the two girls are children we have a duty of care to protect them and their identity. It is not appropriate to either provide with this representation a copy of the birth certificate or still photographs of them inside taken from the CCTV inside OM Food & Wine at the time of the illegal sale of alcohol. We will however bring these pictures with us to the Committee hearing should members of the Committee wish to view them. We will also be happy for [REDACTED] [the Premises Licence Holder] to view the pictures by appointment at the police station prior to the Committee hearing should he wish to see them in advance. As already stated, Mr Patel has admitted selling the alcohol to the boy both to the officers who attended the shop on the 20th June 2020, and in

person to my police licensing team colleagues when he subsequently attended the police station with the Premises Licence Holder (PLH) [REDACTED]

Police licensing made contact with the PLH [REDACTED] on the 29th June 2020 in relation to the incident on the phone, and followed the call up with a letter (copy attached) the same day.

On Wednesday 19th August 2020 [REDACTED] attended our office at our request for a formal meeting to discuss the sale of alcohol to the children. [REDACTED] again admitted the sale of alcohol to the children and apologised for this action. It was explained that [REDACTED] (the PLH) owns the freehold of shop, and has given [REDACTED] a twenty year lease.

The conditions on the existing premises licence were discussed and it was pointed out by Sussex police that the existing conditions in annexe 2 of the premises licence are out of date by current accepted standards. [REDACTED] and [REDACTED] were presented by police with a pre prepared minor variation application form in the name of OM Food & Wine to remove the existing out of date conditions and replace them with new up to date conditions, including a modern CCTV condition, challenge 25 and staff training. In view of the recent serious failure to promote the licensing objectives when the DPS [REDACTED] sold alcohol to a fourteen year old boy without any age identification challenge, police requested that the PLH and DPS should themselves submit the completed minor variation form to Worthing Council with the accompanying £89 fee to update the licence conditions.

[REDACTED] was presented with a formal warning letter in relation to the sale to the fourteen year old boy, together with a list of recommendations to prevent further underage sales. [REDACTED] signed both documents (copies of which are attached to this representation), and copies were also given to [REDACTED] at the same time.

We note subsequently however that the minor variation was not submitted by [REDACTED] and Mr [REDACTED]. We sent an email to [REDACTED] on the 2nd September 2020 reminding him about the minor variation application, and inviting him to contact us to confirm their intentions with reference to the minor variation. We did not receive any response to our request, which when viewed in the light of the subsequent test purchase failure when alcohol was again sold to a child, is most unfortunate.

The premises was the subject of an unannounced visit by police licensing officers on the 12th January 2021. [REDACTED] was working in the shop. There was no part B of the premises licence clearly on display. Again there were no challenge 21 posters (or the challenge 25 posters previously supplied by police...) on display. The CCTV was viewed and it was confirmed that 26 days footage was retained on the hard drive, and not 31 days as per the licence condition. [REDACTED] said he would need time to fix the CCTV as the business was not making any money. He was trying to sell the business and move away.

[REDACTED] was asked to produce his refusals register and he showed a refusals register with three entries dated May, September and October 2020. [REDACTED] was asked if he had an electronic till prompt (a condition in annex 2 of the licence) to immediately flag up age restricted products when they were scanned through the till. [REDACTED] replied that he did not. However when officers picked up a bottle of wine and scanned it through the till, an automatic age restricted sales warning came up on the till computer screen. It is a matter of concern that Mr

██████ was apparently oblivious to this till prompt on his on till, even though presumably it flashes up every time an age restricted product is scanned through the till and expressly requires the seller to confirm the buyer is aged 18 or over before the sale can continue?

A follow up visit was conducted on the 21st January 2021 to check that the issues identified during the previous visit on the 12th January 2021 had been rectified. There was still no part B of the licence on display, and it was pointed out to ████████ that having a copy of part B on the side of a door at right angles to the public so they cannot see it did not comply with the requirement. ████████ was given more challenge 25 posters. ████████ stated that he had contacted a CCTV engineer to increase the memory on the CCTV hard drive to retain 31 days footage (and thus comply with the licence condition), but the engineer could not visit due to Covid-19. A follow up letter to ████████ was sent on the 21st January 2021, a copy of which is attached.

Due to the time that has expired since then a further unannounced licensing visit was arranged for the 7th April 2022 so a fair and up to date situation can be reported to the Committee in this representation. Mr Patel was working at the shop, and all the conditions on the licence were gone through. We can confirm on this visit that all the conditions on the licence were being complied with, including the data retention of 31 days on the CCTV hard drive.

Whilst it was reassuring to confirm that this month all of the conditions on the licence are being adhered to, Sussex police are nevertheless concerned that there has been a second proven sale of alcohol to a child. This was after the sale to the child in June 2020, which was followed by ████████ as the DPS and ████████ as the PLH coming in for a formal meeting with us, and both gentlemen being issued with a formal written warning in relation to the incident. We view the June 2020 incident with particular seriousness due to the appearance of the three children as evidenced from stills taken from ████████ own CCTV system when the sale was made. We passed the pictures to colleagues in our office and everyone having studied the pictures said that they are quite clearly children aged only around fourteen years old, and it was appalling that they had been supplied alcohol.

A further aggravating factor in this case is that both ████████ and ████████ did not submit the minor variation to Worthing Council as per our request to update the licence conditions to current modern standards. When we enquired about why the minor variation had not been submitted, we did not even get the courtesy of a reply. Then there is a further sale of alcohol to a child.

Sussex police note on reading the review application from Mr Aston at Trading Standards that:

- There was intelligence in January 2022 from a local secondary school that OM Food & Wine was “the place to go” for children to purchase age restricted products;
- A Trading Standards Officer visited the shop on the 25th January 2022 and gave advice face to face to Mr Patel on age restricted products and challenge 25;
- On the 23rd February 2022 during a controlled test purchase operation, Mr Patel then sold alcohol to a fifteen year old child.

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.

There is also in breach of the S.182 Statutory Guidance as follows:

Age verification

10.46 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to be responsible persons (see paragraph 10.39) to be under the age of 18 years of age to produce, on request, before being served alcohol, identification bearing their photograph, date of birth and either a biographic mark or unobscured feature. The Home Office encourages licensed premises to accept cards bearing the Proof of Age Standards Scheme (PASS) logo as their preferred proof of age, while acknowledging that many other forms of identification meet the requirements of the mandatory condition.

10.47 The premises licence holder or club premises certificate holder must ensure that staff (in particular, staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy which applies by the premises.

10.48 The designated premises supervisor (where there is one) must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. This means that the DPS has personal responsibility for ensuring that staff are not only aware of, but are also applying, the age verification policy. 10.49 It is acceptable and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to be responsible persons to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.

Mr Patel has also clearly breached the conditions in annexe 2 of his own premises licence and has committed a criminal offence under S.146 of The Licensing Act 2003 by selling alcohol to a child. These points are all detailed in the review application from Trading Standards.

The concluding two paragraphs of the Trading Standards representation state:

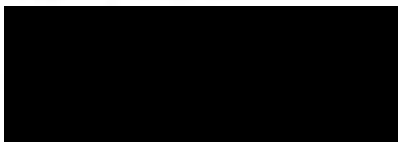
In view of the above, the Responsible Authority do not have confidence that the licensing objectives will be promoted by the carrying on of licensable activities at these premises and deem it both proportionate and necessary to invite the committee to consider a review of the premises licence, to limit further criminal activity by the licence holder and to act as a deterrent to other operators considering such illegal conduct.

As underage prevention advice had been provided before the sale of alcohol was made to a Trading Standards volunteer, the Responsible Authority suggest that an appropriate outcome of the review would be revocation of the alcohol licence.

If we add the sale of alcohol to the children in June 2020 which was followed by a formal warning to the DPS and PLH to the events in January and February 2022, then it is inevitable that Sussex police fully support the stance taken by Trading Standards in this case, and also invite the Committee to consider revoking the premises licence for the reasons stated above.

Unfortunately in the case of both sales to children, Trading Standards and police have attempted to work with and assist Mr Patel, and yet still alcohol is sold to children.

Yours sincerely,



Inspector David Derrick CD295
West Sussex Licensing Inspector
Sussex Police

Encs

WITNESS STATEMENT

Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s.9

URN

Occurrence Number: 47200101358

Statement of: [REDACTED]Age if under 18: Over 18 *(if over 18 insert 'over 18')* Occupation: POlice Community Support 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.

Signature:  [REDACTED]

Date: 14/04/2022 09:31

Tick if witness evidence is visually recorded

This statement relates to an incident that occurred nearly 2 years ago. Luckily I used this incident as part of my One File Occupational Competency Portfolio for my Apprenticeship Diploma so I can recall it pretty well.

I am a serving Police Community Support Worker based in Worthing at Chatsworth Road Police Station and on Saturday 20th June 2020 I was working in full uniform and operating under the call sign WWJ09.

A report came in from the Ambulance service that some teenagers had been found extremely intoxicated and they were wandering dangerously around Goring Gap throwing up and collapsing and Police needed to attend.

I attended with a colleague and spoke to the Ambulance team to get the full details. Three youths, 2 females and a male all aged around 14 years old had been found staggering around being sick and a member of the public had called the Ambulance. I spoke to the 14 year old male who was stood with his mother while one of the females was being attended to in the Ambulance. He told me that he had met up with the two girls at Worthing Station and they had walked up Clifton Road to the shop called Clifton Food and Wine and bought a bottle of Vodka.

He had approached the till and asked for the Vodka which is kept behind the till and the male shopkeeper had not at any time asked him for any ID. He had been asked to move down towards the end of the till point before the Vodka was handed over to him and the shopkeeper told him to put it straight into his rucksack.

I went and found the empty vodka bottle to keep as evidence and then went straight to Clifton Food and Wine and spoke with the manager. He wasn't very helpful about me viewing the CCTV and was very dismissive about the fact he had sold alcohol to an underage child. I asked to see the Alcohol licence from the shop and the refusals book but the manager didn't seem to understand me very well as spoke very poor English. There was no refusal's book and he was reluctant to let me watch the CCTV claiming he wasn't sure how the system worked.

I viewed the CCTV and could clearly see the youths come into the shop, the male point to something on the shelf behind the manager and then the manager take a bottle off the shelf and then walk to the end of the counter and the male youth followed him. The CCTV then didn't cover the end of the counter which I believe is why the manager moved to that area to complete the transaction.

I took a few screenshot photographs of the youths in the shop for evidence and then went back to the station and I researched Innkeeper which is the Sussex Police system database which holds all premises licence details and found out the owner of the shop. I looked at his conditions and emailed the licensing Police Officer to inform him what had happened.

I arranged to take a statement from the youth at a later date and when I visited him to take this he stated once again that he was not asked for any ID at any time.

This statement has been written at Chatsworth Road Police Station on 14th April 2022 and recalls the incident to the best of my ability at this time.