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## **Licensing Sub-Committee**

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**MINUTES** of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT on Monday, 12 May 2025 from 10.06 am - 12.08 pm.

**PRESENT:** Councillors Derek Carnell (Chair), Simon Clark and Tony Winckless.

**OFFICERS PRESENT:** Lorraine Crowley, Kellie MacKenzie, Jo Thomas and Helen Ward.

**ALSO IN ATTENDANCE:** Shivam Patel, Michael Kheng, Prajesh Patel, PC Andre Smuts, PC Carrie Knight, Andy Blair (KCC Youth Harm Reduction Officer), Jim Whiddett, PC Mark Squires.

### **817 Emergency Evacuation Procedure**

The Chair outlined the emergency evacuation procedure.

### **818 Notification of Chair and Outline of Procedure**

The Chair opened the meeting and asked those present to introduce themselves.

### **819 Declarations of Interest**

No interests were declared.

### **820 Review of Premises Licence under the Licensing Act 2003**

The Licensing Officer introduced the report which asked Members to consider a review of a premises licence granted under the Licensing Act 2003 made by Kent Police in respect of Macknade Stores, Canterbury Road, Faversham. She reported that the grounds for the review related to the following licensing objectives: the protection of public safety; and the protection of children from harm and related to an allegation of the sale of alcohol to a child.

The Licensing Officer referred to Appendix II (the application for the review of the licence from Kent Police), Appendix III (communication from Kent Police to the licence holder), and Appendix IV (witness statement from PC Knight). She reported that Kent Police had also provided CCTV and body-worn camera footage of the incident, which had been shared with Members of the Sub-Committee and the premises licence premises holder's representative prior to the hearing.

The Licensing Officer reported that during the 28-day consultation a representation was received from Kent County Council (KCC) Trading Standards, set-out at Appendix VII of the report. The Licensing Officer reported that Mr Kheng (the licensee's representative), had submitted a portfolio of evidence which had been provided in advance of the meeting. She further reported that additional information submitted Friday 9 May 2025 by the applicant's representative had been received and it had been agreed by all parties that the information could be considered.

The Licensing Officer reported that Kent Police sought additional conditions to be added to the licence, as set-out at Appendix V of the report and that they were also seeking a period of suspension of the licence to allow the additional conditions to be implemented should they be approved by the Sub-Committee.

The Chair invited Kent Police to present their case.

PC Andrew Smuts (Kent Police) read-out their evidence as set-out at Appendix II of the report. He referred to the additional conditions they would like to see imposed on the licence, and was pleased to note that the licensee agreed to implement those conditions and that Mr Shivam Patel had obtained his personal licence. He asked that the Sub-Committee agree to suspend the licence until the proposed additional conditions were 'embedded' at the premises and to allow the licensee time to 'reflect' on what had happened.

The Chair invited the Sub-Committee to ask questions.

A Member asked whether the Police considered that on speaking to Shivam Patel whether he understood the laws in respect of the sale of alcohol and vapes? PC Smuts said that whilst he had not asked Shivam directly if he understood that it was illegal to sell alcohol and vapes to persons under the age of 18, Shivam had immediately said that she had shown ID to confirm she was 18-years of age so it was assumed he did know.

The Chair invited interested parties to ask questions.

The Senior Lawyer (Contentious) said that since the review was submitted there had been evidence that training had been provided so how did that impact the request from the Police for a suspension of the licence? Also, were the Police happy that a similar incident would not happen again? PC Smuts said he was happy that the licensee had 'sprung' into action and Shivam was now trained as a Personal Licence Holder. He said that with regard to Shivam he was slightly 'cautious' moving forward but would be keeping a close eye on the premises.

The Chair invited KCC Trading Standards to present their representation.

Mr Whiddett, Operations Manager KCC Trading Standards read out their representation as set out at Appendix VII of the report.

The Chair invited Members of the Sub-Committee to ask questions.

In response to a question from the Chair, Mr Whiddett said that whilst he did not have the exact details of why 38 vapes were seized on 19 May 2023, he thought it may have been due to incorrect labelling.

The Chair invited interested parties to ask questions.

Mr Kheng asked whether there was any evidence to back-up the complaint's listed in their evidence at Appendix VII. Mr Whiddett explained that the majority were from members of the public and youth workers. Following receipt of the complaints KCC Trading Standards had visited the premises. Mr Whiddett confirmed that no complaints had been received during 2024.

The Chair invited the premises licence holder and their representative to put forward their case.

Mr Kheng, on behalf of the premises licence holder, apologised that the incident had

occurred. He advised that the licence currently had no conditions requiring CCTV so there was no obligation under the Licensing Act 2003 for the premises to hand over any CCTV. Shivam could have viewed the CCTV on his mobile phone but could only have done that after he got the code from his father. There was also no condition on the licence for Challenge 21 or Challenge 25 to operate, other than the mandatory conditions (1) and (3) set-out under condition 9 on page 12 of the report. He said he did not think the child was dressed like a 14-year old but did look 18-years old. Mr Kheng referred to the Police and Reform Social Responsibility Bill which listed the persistent selling of alcohol to children as two sales in a three month period. This was one sale and Shivam had been at the premises for five years. He asked Members to bear in mind that over an approximately 19-year period alcohol had been sold at the premises and this had been the first incident.

Mr Kheng referred to the KCC Trading Standards evidence and said that the complaints they had received had not been substantiated with any evidence. He was aware that under 18s would not want the premises they were buying alcohol from to be stopped, so would often provide details of another premises. He referred to the illegal vapes that were seized from the premises in 2023 and the newspaper article he provided, detailing that Tesco, Morrisons and Sainsbury's had banned the sale of Elf Bar 600 series vapes in 2023 as illegal ones had been found in their stores. He said if such large companies could fall foul of mistakenly buying illegal vapes then a small premises such as the Macknade Store could also. He referred to the National Lottery No ID, No Sale certificates awarded to the premises in 2022, 2024 and 2025 following test sales, and said that demonstrated the premises did operate a challenge policy and refuse sales.

Mr Kheng confirmed that the Licensee was happy for the Police conditions to be added to the premises licence. He added that Mr Prajesh Patel also owned another premises in Sittingbourne, the Woodberry Stores and had now submitted a minor variation for that premises to add the same conditions, which he considered demonstrated he was a responsible licence holder. The premises did now have a Challenge 25 Policy in place and refusal book at both premises. Any member of staff that did not hold a personal licence needed to complete the quiz at the back of the 'Alcohol Workbook' which Highfield, a recognised awarding body, accepted.

The Chair invited questions from Members.

In response to questions from a Member, Mr Kheng confirmed that Kurnia were an accredited training centre and had been for over twenty years. He considered that by her appearance the child that had been sold the vodka did appear to be 18-years of age. He said that despite not being convinced by the ID the girl had shown on her phone, Shivam sold the vodka to the girl as she had been 'persistent' and PC Knight in her evidence had stated that the mother of the girl said her daughter could be persistent. Mr Kheng said that the Licensee was horrified that this had happened and did not want to lose his business and would do whatever he could to ensure it never happened again.

The Chair asked Shivam whether he thought the CCTV was working or not when the Police arrived? Shivam said that they had experienced issues with it working properly, and whilst he could download the app he needed the code from his father to be able to view the CCTV.

The Chair invited questions from interested parties.

The Senior Lawyer (Contentious) said that the evidence they had provided was 'inconsistent', how could the Sub-Committee be reassured that consistent and truthful information would be forthcoming moving forward? Kheng said that Shivam had now completed his training and adequate procedures were now in place. The certificates from the National Lottery demonstrated that they did ask for ID.

The Senior Lawyer (Contentious) referred to the National Lottery Certificate for 2022 which confirmed that there was a procedure in place for staff to ask for ID and there had been a refusals register. She asked Shivam where were those systems when Trading Standards visited the premises in 2023? Shivam explained that the National Lottery had been a test case and they had not asked to see the refusals register. Mr Kheng said that there was a refusals register and also a prompt came up on the till when selling alcohol to ask for ID.

In response to a question from the Senior Lawyer (Contentious) about who would be providing the training under the new conditions, Mr Kheng said the training would be undertaken via the Alcohol Workbook which was self-study training. There were four members of the family with a personal licence and they were aware that if there was not a personal licence holder on the premises they could not sell alcohol.

PC Smuts referred to the comment from Mr Kheng that there were no conditions on the premises licence so did not need to provide CCTV or Challenge 25, he asked whether Mr Kheng was saying they could therefore just 'run-a-muck'? Mr Kheng said he was just highlighting there were no conditions for CCTV or Challenge 25 and so they were under no obligation under the Licensing Act to provide CCTV. PC Smuts stated that the girl did not look 18-years old to him.

Mr Whiddett asked what date the Lottery Service conducted their review and inspected the refusals register and how many registers did they have at the premises? Mr Kheng confirmed the 25 July 2022 and 30 July 2024. Shivam confirmed there was one refusals register at the premises.

The Chair invited interested parties to summarise their closing remarks.

PC Smuts said that Kent Police licensing were of the opinion that they were not told the truth on the day of the incident and did not hold much credence for Sivam's honesty. They were however appreciative that they had agreed the additional conditions.

Mr Whiddett said that KCC Trading Standards were concerned regarding the underage sales, and there was a 'gap' within the timeframe that was 'unexplained'. They supported the Police request and noted some of the activity alleged appeared to be outside of normal trading circumstances which they asked the Committee to consider.

Mr Kheng said that the premises licence holder had agreed the conditions requested by Kent Police at both of their stores. He asked that Members did not suspend the Licence as that would only have a financial impact on the premises licence holder and the conditions were already being embedded.

Members of the Sub-Committee adjourned at 11.29 am to make their decision. Members of the Sub-Committee, the Lawyer (Contentious) and the Democratic Services Officer returned to the meeting at 12.06 pm and the decision was announced.

The decision notice is attached to the online version of the minutes.

***Resolved:***

- (1) The Sub-Committee agreed that the additional conditions requested by Kent Police be endorsed on the premises licence and a written warning be issued.***

**821 Adjournment of Meeting**

The meeting was adjourned from 10.08 am until 10.16 am and 11.19 am until 11.22 am.

Chair

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All minutes are draft until agreed at the next meeting of the Committee/Panel