

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Monday, 25th July, 2011

Present: Cllr A W Allison (Chairman), Cllr J A L Balcombe and Cllr T J Robins.

Councillors Ms Atkinson, Mrs Bates and C Brown were also present as observers.

Together with the Licensing Authority, Kent Trading Standards, Kent Police, Starlight Stores and their Legal Advisors.

PART 1 - PUBLIC

**LA
11/043 DECLARATIONS OF INTEREST**

There were no declarations of interest made.

**DECISIONS TAKEN UNDER DELEGATED POWERS IN
ACCORDANCE WITH PARAGRAPH 3 PART 3 OF THE
CONSTITUTION**

**LA
11/044 APPLICATION FOR REVIEW OF PREMISES LICENCE FOR
STARLIGHT STORES, 68 WESTERN ROAD, BOROUGH GREEN**

The Panel gave consideration to an application made by Kent Trading Standards for a review of a premises licence in respect of Starlight Stores, 68 Western Road, Borough Green. The grounds for applying for a review was to address the licensing objective 'Protection of Children from Harm' following a test purchase operation in which alcohol had been sold to a 15 year old volunteer.

The Panel listened carefully to the representations made by Mr R Strawson of Kent Trading Standards, Ms E Shaw of Kent Police and from Mr N Khan, Legal Advisor for Mr E Kaya the owner of Starlight Stores, and had regard to the written representations contained in the report and the witness statement of Mr Kaya, tabled prior to the meeting.

It was accepted by Mr Kaya that there had been instances where alcohol had been sold to persons under the age of 18. There had been further allegations by Kent Police and Trading Standards of non-compliance with the licence conditions and sale of counterfeit goods. These allegations were disputed by Mr Kaya but the Panel regarded the evidence submitted by the responsible authorities as credible and took the allegations seriously.

The Panel considered carefully whether to revoke or suspend the licence, but in the circumstances of this case were satisfied that the promotion of the licensing objectives would be met by the imposition of the 15 additional conditions suggested by Trading Standards. Conditions 2, 3, 4, 6, 7 and 8 of the existing license to be replaced by the conditions set out at paragraph 1.2.6 of the report.

Mr Kaya was aware, from his appearance before the Panel that he was 'on the radar' of Kent Police, Trading Standards and now the Licensing Authority. Any further breaches could result in a further application for a review. The Panel hoped that Mr Kaya had listened to the views expressed by the authorities, and would ensure that he complied with all the conditions of his licence in the future.

In accordance with the objectives contained in the Licensing Act 2003 and the objectives contained in the Licensing Policy of Tonbridge and Malling Borough Council, the Licensing and Appeals Committee, sitting as a Panel,

RESOLVED: That the Premises Licence be modified by the addition of the following conditions in replacement of existing conditions 2, 3, 4, 6, 7 and 8:

1. CCTV will be fitted to a standard agreed by Kent Police and local authority officers. The system must comply with the CCTV Code of Practice (2008) edition produced by the Information Commissioners Office.
2. The CCTV system will be maintained and serviced on a regular basis.
3. Any recording made via the use of CCTV will be retained and stored for a minimum of 31 days and made available to any police officer, local authority licensing officer or any Trading Standards Officer on request or in any case within 48 hours of a request being made.
4. CCTV coverage will include areas inside and outside the premises and in accordance with advice from Kent Police and may include reasonable requests to reposition cameras.
5. Signs are to be displayed to inform the public passing the premises and customers that CCTV is in use at the premises.
6. The only forms of identification acceptable will be photographic driving licence, passport or a 'PASS' approved identification card.
7. A policy of Challenge 25 will be adopted and publicised in the shop including at the entrance, till point and around the alcohol display areas to the agreement of Kent Police and local authority licensing officers.

8. All staff will be trained in Challenge 25 and this training will be auditable as per condition 11.

9. The electronic point of sale (EPOS) system is to be upgraded to include the facility to prompt cashiers when scanning age restricted goods to positively confirm that they have checked the purchaser's age.

10. A written refusals and challenges book will be kept at the premises and all staff fully trained in its use. As well as refused sales a record should be kept where customers are challenged and subsequently served as per the Challenge 25 policy of condition 8. The following information will be recorded in this book:-

- Time of refusal or challenge
- Item refused
- Description of person refused sale
- Reason for refusal
- Name of staff member making refusal

11. The Premises Licence Holder must audit the refusals and challenges log weekly to identify current trends or members of staff who may require further training to challenge customers.

12. The refusal book will be made available for inspection to any police officer, local authority licensing officer or Trading Standards Officer at any reasonable time.

13. All staff training will be auditable and will be available to any police officer, local authority licensing officer or Trading Standards Officer at any reasonable time.

14. The sale of alcohol may only be transacted by a personal licence holder or under the direct supervision of a personal licence holder at all times. When no personal licence holder is present on the premises a sign will be prominently displayed to make all purchasers aware that there are to be 'NO ALCOHOL SALES'.

15. The Designated Premises Supervisor will resit Level 2 National Certificate for designated Premises Supervisors examination.

MATTERS FOR CONSIDERATION IN PRIVATE

**LA
11/045**

EXCLUSION OF PRESS AND PUBLIC

No items were considered in private.

The meeting ended at 2118 hours