

**LICENSING ACT 2003 SUB COMMITTEE**

**MINUTES OF THE MEETING HELD  
MONDAY 9<sup>th</sup> DECEMBER 2008 AT 10:00 AM  
TOWN HALL, HIGH STREET, MAIDSTONE**

**AGENDA ITEM 1**

**Application for the review of a Premises Licence under the Licensing Act 2003 for Wheeler Wine Stores, Wheeler Street, Maidstone, Kent, ME14 2UL**

**PRESENT:**

**Committee Members:** Councillor Parvin (Chairman)  
Councillor Wilson  
Councillor Mrs Gibson

**Council Officers:** Jayne Bolas – Legal Advisor  
Lorraine Neale – Senior Licensing Officer

**Applicant:** Kent County Council Trading Standards –  
represented by Mr Richard Strawson – Area Manager

**Licence Holder:** Mr Stephen Smith represented  
his brother Mr Paul J Smith the licence holder

**DISCLOSURES BY MEMBERS AND OFFICERS**

There were none.

**DISCLOSURES OF LOBBYING**

There were none.

**EXEMPT ITEMS**

**RESOLVED:** That the items on the Agenda be taken in public as proposed.

**Opening Remarks**

The Chairman opened the meeting by asking all parties to introduce themselves. He then read out to all present the administrative matters as set out in the Licensing Act Sub Committee Hearing – Order of Proceedings document. All participants confirmed that they had copies of and understood the procedure. All Committee Members confirmed that they had read the papers beforehand.

The legal advisor then outlined the application and representations regarding the application.

## **The Hearing**

### **i. The Applicant for Review**

Mr Strawson explained that KCC as a Responsible Authority submitted reviews when deemed appropriate under the Licensing objective of the Protection of Children from Harm, documents provided showed that an illegal sale was made by J. Collins to child aged 15. He explained that after receiving intelligence from the police a visit was made to the store to give advice and that was followed up in writing and a subsequent test purchase failed. He further added that visits and advice were reasonable steps to take and were also Best Practice and that the Review was necessary to seek conditions to ensure underage sales are minimised. Gillian Powell was in attendance as a witness and would be prepared to answer any questions.

Mr J Smith had no questions to ask.

Councillor Parvin queried why the Penalty Notice for disorder dated 19/08/08 was issued to J. Collins.

Mr Strawson explained that they are issued to the person who makes the physical sale not the licence holder .

Councillor Parvin asked if any criminal proceedings were imminent.

Mr Strawson replied that prosecuting the Licence holder was still under consideration.

Mr S Smith told the sub-committee that the shop employs occasional workers and J.Collins is one of them. He stated that she does not drink but may have been on pain killers when the incident happened. She has now been instructed when serving customers to ask for ID if they look under 25. He explained that age restriction signage was now being displayed in the shop and Mr P Smith was trying to comply as best as he can but does not know what to do to improve matters further, he will use a refusals book.

Mr Strawson No questions

Councillor Wilson asked how many permanent members of staff worked 8am to 11pm other than the DPS and what ages they were.

Mr S Smith replied they were 2 full time members of staff one of which was his brother Paul and 3 casual staff one of which was their sister and a 23 year old. He also explained that the shop actually closed at 9pm not 11pm.

Councillor Wilson asked if the staff had been giving training with regards to the refusals book.

Mr J Smith answered yes they had been trained.

Councillor Gibson queried if they had taken any actions after receiving the letter offering advice from KCC at the end of July, as it was stated that 2 weeks later

when the test purchase occurred that the refusals book had not been updated.

Mr J Smith answered yes training had been given.

### **Closing Speeches**

i. The Applicant for Review

Mr Strawson said that he believed the conditions were reasonable, not over burdensome, and would assist Wheeler Wine Stores in operating their premises.

ii. The Licence Holder

Mr S Smith stated he had nothing further to add.

### **End of Hearing**

The Chairman brought the Hearing to a close and asked for Jayne Bolas to remain with the Sub-Committee Members during their deliberations.

### **The Decision**

The Sub Committee came to the decision as shown in the Notice of Determination at Appendix A.



**LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL**

**LICENSING ACT 2003  
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

**NOTICE OF DETERMINATION OF REVIEW HEARING**

Application Ref No: MAID0185/LPRM/1079

---

Applicant for Review: Kent County Council Trading Standards.  
(Mr Richard Strawson – Area Manager)

Regarding the premises : Wheeler Wine Stores, 108 Wheeler Street, Maidstone,  
ME14 2UL

Licence Holder: Mr Paul J Smith

Date of hearing: 09/12/08

Date of determination: 09/12/08

Committee Members: [Chairman]: Councillor: Parvin  
Councillor: Mrs Gibson  
Councillor: J Wilson

Legal Advisor in attendance at hearing: Mrs Bolas

Senior Licensing Officer in attendance at hearing: Mrs Neale

This is an application for:

Review

of a:

Premises Licence     Club Premises Certificate

**A: Representations, evidence and submissions:**

The Committee considered the representations, evidence and submissions of the following parties:

**Applicant for Review:**

- Name: Kent County Council Trading Standards
- Legal or other representative: Mr R. Strawson
- Witness (1): Gillian Powell

**Licence Holder: Not attending**

Other Representative

- Name: Mr Stephen Smith

**Representations considered in the absence of a party to the hearing:**

...None.....

**B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council**

The Committee has taken into account the following provisions of the Licensing Act 2003 and the Regulations thereto:

Sections 51 – 53 inclusive which relate to the review of a premises licence;

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

- Chapter 11 which relates to reviews;
- Chapter 10 which relates to conditions attached to licences;
- Annex D part 5 that relates to potential conditions:

The Committee has taken into account the following provisions of its Statement of Licensing Policy:

Chapter 19 which relates to the 4 licensing objectives;  
Chapter 23 which relates to the protection of children from harm;

The Committee has decided to depart from the guidance under section 182 of the Act and/or the statement of licensing policy for the following reasons:

Paragraphs and reasons (state in full):

None

### **C. Determination:**

**The Committee has decided, having regard to the application and the relevant representations, taken the following step(s) members consider necessary for the promotion of the licensing objectives:**

- take no action in respect of the premises licence/club premises certificate;
- issue a warning to the premises in the following words:
- Take one or more of the following steps under s. 52 (4) (premises) of the Act:

To modify the conditions of the licence. (Note: conditions may be modified for a set period of time up to 3 months if considered appropriate). If so, state the modified conditions and if it is time limited:

Permanently.

Add to the premises licence conditions shown as 1–6 at page 4 of the application for review (see below) save for amending reference to “Mr Smith” to “the licenceholder” and “should” to “shall” in condition 1.

1. Mr Smith (or another person holding a Personal Licence) should at all times be in the shop floor area to personally supervise age restricted sales.
2. A Challenge 21 policy should be publicised in store with use of sufficient notices for all potential purchasers to be aware of the policy and this policy should be adhered to in all instances.
3. A refusals register is to be completed every time a refusal is made to someone because they appear under 21 in a format agreed by Kent Trading Standards.
4. The refusals register should be checked and reviewed weekly by the Designated Premises Supervisor and a signature applied to the book to verify this.
5. There should be a written training procedure proportionate to the size of the business and number of staff with signatures gained from each member of staff to confirm they have been trained in relation to sales of age restricted goods. This training should include (but not be limited to): -

- making all staff fully aware of a Challenge 21 policy
  - training all staff on the use of a refusals register as described in point 3
6. Forms of identification which are to be acceptable as “proof of age” must be limited to a passport, driving licence (with photo) or “Pass approved” proof of age card.

- To exclude a licensable activity from the scope of the licence (or qualifying club activity from the certificate). (Note: activities can be excluded from the licence for a period of time up to 3 months if considered appropriate. Activities can also be excluded from certain parts of the premises if appropriate). If so, state the activities excluded and if the exclusion is time limited or limited to certain parts of the premises:

.....

- To remove the Designated Premises Supervisor
- To suspend the licence or certificate for a period not exceeding 3 months
- To revoke the licence or withdraw the club premises certificate.

**Reasons for determination:**

- Prevention of Crime and Disorder  
Reasons (state in full):

.....

- Public Safety  
Reasons (state in full):

.....

- Prevention of nuisance  
Reasons (state in full):

.....

- Protection of children from harm  
Reasons (state in full):

.....

To secure that the premises promote the licensing objective of protection of children

from harm and to prevent future incidents of underage sales of alcohol.

PRINT NAME (CHAIRMAN): Councillor Parvin

Signed [Chairman]: A copy of the original document is held on file

Date: 9/12/2008

-----