

AGENDA

LICENSING ACT 2003 SUB COMMITTEE MEETING



Date: Tuesday 26 July 2011
Time: 2.00 pm
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Mrs Gibson, Mrs Joy and Naghi

Legal Representative: Mrs Jayne Bolas

Page No.

- | | |
|--|--------|
| 1. Disclosures by Members and Officers | |
| 2. Disclosures of Lobbying | |
| 3. To consider whether any items should be taken in private because of the possible disclosure of exempt information | |
| 4. Report of the Democratic Services Manager - A Review of a Premises Licence under the Licensing Act 2003 for Marmaris, 44 Mote Road, Maidstone, ME15 6ES | 1 - 45 |

Continued Over/:

Issued on 18 July 2011

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact LORRAINE NEALE on 01622 602028**. To find out more about the work of the Committee, please visit www.maidstone.gov.uk

**Alison Broom, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone Kent ME15 6JQ**

Agenda Item 4

Agenda Item No: 1 – Summary of Report

Licence Reference MAID0185/LPRM/3983
Report To: LICENSING SUB – COMMITTEE
(UNDER THE LICENSING ACT 2003)

Date: 11 JULY 2011

Report Title: MARMARIS, 44 MOTE ROAD, MAIDSTONE, ME15 6ES

Application for Review of a Premises Licence

Report Author: Lorraine Neale

Summary:

1. The Applicant for Review – Richard Strawson on behalf of the Kent County Council Trading Standards
2. Type of application applied for: Review of a Premises Licence.
3. Grounds for Review

Protection of Children from Harm:

The review is being requested because it is believed that the premises is failing in the Licensing Act objective of Protecting Children from Harm by the apparent willingness to allow a sale by proxy to a 15 year old volunteer.

A test purchase operation was conducted at the premises on 17th March 2011 on the basis of intelligence received. This operation was conducted by the Trading Standards Department of Kent County Council. At approximately 7pm a test purchase attempt was made by a 15 year old female volunteer. Trading Standards Officer Oliver Jewell was in the premises to witness the attempted test purchase.

The attempted purchase was initially refused by the person selling. When the volunteer left the shop another customer in the shop began to tell the person selling that the volunteer was “his mates sister” and that she was 19 years old. The person selling explained that they had a Challenge 25 policy by pointing to a poster above the till. The male suggested that he could make the purchase on behalf of the volunteer and the person selling nodded to imply that he could allow that. The male left the shop to catch up with the volunteer. The female volunteer declined the offer and the third party left. This was all witnessed by the Trading Standards Officer Oliver Jewell.

Trading Standards Officer Oliver Jewell returned to Marmaris on 18 March 2011. An explanation was given to the events of 17th March 2011 and it was considered that if the volunteer had agreed, a proxy sale would have been made.

Affected Wards: High Street - East

Recommendations: **The Committee is asked to determine the application and decide whether to take such steps as members consider necessary for the promotion of the licensing objectives.**

Policy Overview: The decision should be made with regard to the Secretary of State's

Guidance and the Licensing Authority's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and that such departure be supported by proper reasons.

**Other Material
Implications:**

HUMAN RIGHTS: In considering this application it is necessary to consider the rights of both the applicant and other parties, such as “**responsible authorities**” and/or “**interested parties**” (objectors). The hearing procedure for reviewing premises licences has been formulated to ensure a fair hearing for all parties.

LEGAL: Under the Licensing Act 2003 the **Licensing Authority** has a duty to exercise licensing control of relevant premises.

Background Papers: Licensing Act 2003
DCMS Guidance Document issued under section 182 of The Licensing Act 2003 as amended
Maidstone Borough Council Statement of Licensing Policy

Contacts: Mrs Lorraine Neale at: lorraineneale@maidstone.gov.uk – tel: 01622 602028

Agenda Item No. 1

Report Title: MARMARIS, 44 MOTE ROAD, MAIDSTONE, ME15 6ES

Application for Review of a Premises Licence

Purpose of the Report

The report advises Members of an application for the review of a premises licence, brought by Richard Strawson on behalf of the Kent County Council Trading Standards in respect of the premises Marmaris, 44 Mote Road, Maidstone, ME15 6ES. There have been no representations from any other Responsible Authorities or Interested Parties.

Issue to be Decided and Options

1. Members must, having regard to the application and any relevant representations, take such steps mentioned below as members consider necessary for the promotion of the licensing objectives.
2. The steps are:
 - To modify the conditions of the licence (including for a period not exceeding 3 months);
 - To exclude a licensable activity from the scope of the licence (including for a period not exceeding 3 months);
 - To remove the designated premises supervisor;
 - To suspend the licence for a period not exceeding 3 months;
 - To revoke the licence.
 - To issue a warning or caution.
 - To take no action.

Background

3. The relevant statutory provisions are sections 51 to 53 inclusive of the Licensing Act 2003. the Licensing Objectives are as follows:
 - The prevention of crime and disorder;
 - Public Safety;
 - The prevention of public nuisance; and
 - The protection of children from harm
4. The current premises licence was granted on 29th May 2008 a copy is attached as Appendix B
5. The application has been correctly advertised with a notice displayed on the premises and at the Council offices for the required period.

6. The applicant is requesting that the Sub-Committee:-
- 1) suspend the licence for at least 14 days.
 - 2) add further conditions to the premise licence.
 - i. The sale of alcohol may only be transacted by a personal licence holder at all times. At any time when no personal licence holder is present to make a sale, a sign will be displayed prominently to make purchasers aware that there are to be 'NO ALCOHOL SALES'
 - ii. Additional posters will be displayed on the premises in a location to be agreed by Kent Police and Local Authority Officers to raise awareness of customers as to the issue of 'proxy sales'.
 - 3) Existing conditions 12, 13 and 14 should be amended to reflect a change in best practice recommendations from 'Challenge 21' to 'Challenge 25'.
7. **Members are advised that they may only modify premises licences if it is necessary to promote the licensing objectives.**
8. **Relevant sections of The Guidance issued under section 182 of The Licensing Act 2003;**

Chapter 2	Licensing Objectives – para 2.13
Chapter 10	Conditions attached to Premises Licences
Chapter 11	Reviews

Annex D, part 5
Pool of conditions relating to the protection of children from harm

9. **Relevant policy statements contained in The Licensing Authority's Statement of Licensing Policy (Jan 2008);**

Chapter 23 Protection of Children from Harm

A mandatory condition will be applied requiring access to be restricted to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification or in specific cases the Local Authority.

The relaxation in the Licensing Act giving accompanied children greater access to licensed premises is seen as a positive step, which may bring about a social change in family friendly leisure but the risk of harm to children remains the paramount consideration. Clearly, this relaxation places additional responsibilities upon licence holders as well as upon parents and others accompanying children.

The protection of children from harm includes the protection of children from moral, psychological and physical harm and, in relation to the exhibition of films, the transmission of programmes by video or DVD. This includes the protection of children from exposure to strong language, sexual imagery and sexual expletives.

In the event of an unclassified film, then it is expected that the

Licensing Authority will view the film before it is shown in the Council's area.

In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger.

The body of the Local Authority recognises as being confident to advise on matters relating to the protection of children from harm is Kent Social Services, Brenchley House, County Hall, Maidstone, Kent ME14 1RX.

Concerns

The applicant should consider those factors arising from the premises or the activities of their customers within the vicinity of the premises that may impact on the prevention of children from harm. These may include the potential for children to:-

- purchase, acquire or consume alcohol
- be exposed to drugs, drug taking or drug dealing
- be exposed to gambling
- be exposed to activities of an adult or sexual nature
- be exposed to incidents of violence or disorder
- be exposed to environmental pollution such as noise
- be exposed to special hazards such as falls from a height

Additional Steps

The following examples of additional steps are given to assist applicants. The Licensing Authority considers them to be important matters that applicants should take account of in the preparation of their Operating Schedule, having regard to their particular type of premises and/or activities:-

- Effective and responsible management of premises.
Provision of a sufficient number of people employed or engaged to secure the protection of children from harm.
- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm.
- Adoption of best practice guidance (Public Places Charter).
- Limitations on the hours when children may be present, in all or parts of the premises.
- Limitations or exclusions by age when certain activities are taking place.
- Imposition of requirements for children to be accompanied by an adult.
- Acceptance of accredited 'proof of age' cards, 'new type' driving licences with photographs, passport, an official identity card issued by HM Forces or by an EU country bearing the photograph and date of birth of bearer.

N.B. In exceptional circumstances, where necessary, and only where the licensing authority has received relevant representations, it may impose conditions restricting access or excluding children from premises or part of licensed premises:

- a) at certain times of the day, or
- b) when certain licensable activities are taking place, or
- c) to which children aged under 16 years should have access only when supervised by an adult, or
- d) to which unsupervised children under 16 will be permitted access.

Examples of premises where these conditions may be considered include those where:-

- a) There have been convictions for serving alcohol to minors or where there is some evidence of under-age drinking.
- b) There is a known association with drug taking or dealing.
- c) There is a strong element of gambling on the premises.
- d) Entertainment of an adult or sexual nature is commonly provided.
- e) There is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except where under 18 discos are being held)
- f) Licensable activities are taking place during times when children under 16 may be expected to be attending compulsory full-time education.

The Licensing Authority commends the Portman Group Code of Practice on the naming and packaging of alcoholic drinks. See www.portman-group.org.uk for further information.

Members of The Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co – operate in the reduction of crime and disorder in the Borough.

Section 17 of the Crime and Disorder Act 1998 states:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can to prevent, crime and disorder in its area”

Implications Assessment

- 10 The decision should be made with regard to the Secretary of State's Guidance and the Licensing Authority's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal / challenge is increased.
- 11 **Human Rights:** While all Convention Rights must be considered, those which are of particular relevance to the application are:
 - Article 8 - Right to respect for private and family life
 - Article 1 of the First Protocol - Protection of Property
 - Article 6(1)- Right to Fair Hearing
 - Article 10 – Freedom of Expression

The full text of each Article is given in the attached Appendices.

Conclusion

Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

List of Appendices

- 12 Appendix A Application for Review
- Appendix B Copy of Premises Licence
- Appendix C Plan of the premises
- Appendix D Plan of the area
- Appendix E Human Rights Article
- Appendix F Order of Proceedings

Appeal

13. The applicant, any interested party and the licence holder may appeal the Licensing Act 2003 Sub Committee's decision within 21 days beginning with the day on which the Appellant is notified. All any appeals must be lodged with the Magistrates' Court.

Contact:	Senior Licensing Officer
Email:	lorraineneale@maidstone.gov.uk

APPENDIX A

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

RECEIVED
31 MAY 2011

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Kent County Council Trading Standards

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

Marmaris
44 Mote Road

Post town Maidstone

Post code (if known) ME15 6ES

Name of premises licence holder or club holding club premises certificate (if known)

Mr Savas Er

Number of premises licence or club premises certificate (if known)

MAID0185/LPRM/3983

Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)

a) a person living in the vicinity of the premises

☐

b) a body representing persons living in the vicinity of the premises

☐

c) a person involved in business in the vicinity of the premises

☐

d) a body representing persons involved in business in the vicinity of the premises

☐

2) a responsible authority (please complete (C) below)

☒

3) a member of the club to which this application relates (please complete (A) ☐
below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr ☐

Mrs ☐

Miss ☐

Ms ☐

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

☐

Current postal
address if
different from
premises
address

Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Richard Strawson Area Manager Kent County Council Trading Standards PO Box 286 West Malling Kent ME19 4HW
Telephone number (if any) 01732 525291
E-mail address (optional) Richard.strawson@kent.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

Please state the ground(s) for review (please read guidance note 1)

As per the information provided below, the premises is believed to be failing in the Licensing Act objective of Protecting Children from Harm by the apparent willingness to allow a sale of alcohol by proxy to a 15 year old volunteer.

Please provide as much information as possible to support the application

This premises falls within the Maidstone 'Kent Community Alcohol Partnership' (KCAP) zone, formally setup in April 2010 to assist on and off licensed premises in all matters related to responsible sales of alcohol. As such 'Marmaris' received several advisory visits throughout 2010 (in April, early May, late May and October). Part of the KCAP work included the provision of a folder of information for retailers containing template refusals registers and training records.

During 2010 the premises was also tested for compliance with the best practice standard of 'Challenge 25' which although not a criminal offence provides an indication of whether measures are being adequately employed to prevent sales to minors. It is also a condition of the licence of Marmaris that a Challenge 21 (the predecessor to Challenge 25) should be employed where all potential purchasers who appear to be under 21 are asked for ID. During a Challenge 25 test operation on 31/3/10, Marmaris sold alcohol to an 18 year old volunteer.

In March 2011 information was received that local youths had been boasting that Marmaris was one of the only places they could 'get served' in town. As a member of the KCAP zone attempts were made to share this intelligence with the premises licence holder so that if necessary remedial measures could be undertaken. Several attempts were made to visit the shop however on each occasion it was shut; therefore the information regarding this Intelligence report and a reminder of best practice was communicated by letter to the Premises Licence Holder, Mr Savas Er. (Appendix 1 – statement of Clare Stringer regarding advisory visits and letter sent)

A test purchase operation was conducted on 17th March 2011 on the basis of the intelligence received. At approximately 7pm Trading Standards Officer Oliver Jewell was in the premises to witness a test purchase attempt by a 15 year old female volunteer. There was one other male customer in the shop at the time of the attempted purchase.

The attempted purchase was initially refused by a male latterly identified as Mr Savas Er's brother, Mr [REDACTED]. The volunteer left the shop promptly while Trading Standards Officer Oliver Jewell waited to make his purchase. When the volunteer had left the shop the other customer in the shop began to tell Mr [REDACTED] that the volunteer was "his mate's sister" and that she was 19 years old. Mr [REDACTED] continued to explain that they had a Challenge 25 policy by pointing to a poster above the till, however when the male suggested that he could make the purchase on behalf of the volunteer Mr [REDACTED] nodded to imply he could allow that and the male left the shop to catch up with the volunteer. The female volunteer refused the offer and the third party left. As the person was unknown the decision was taken to leave the premises and return the following day. (Appendix 2 – statement of Oliver Jewell)

Trading Standards Officer Oliver Jewell returned to Marmaris on 18th March 2011. On arrival Mr [REDACTED] was in the shop, but Mr Savas Er was called and he attended the shop. Explanation was given as to the events of the previous evening and that it was considered that had the volunteer agreed, a proxy sale would have been made. While the criminal offence would have laid with the third party who was willing to buy the alcohol and pass it to our volunteer, there were failings under the objectives of the Licensing Act 2003 in that knowingly allowing a proxy sale would be failing the objective of 'Protecting Children from Harm'.

The conditions of the premises licence include the following matters which were checked upon during this visit.

Refusals book – It is a condition that a refusals book should be maintained of all

refusals including the time, date, item, description of person, reason for refusal and person making refusal. During the visit Oliver Jewell requested to see a copy of the refusals book. A refusals register was produced containing several refusals following the most recent advisory visit in October but these tailed off with the last refusal being recorded on 22nd December 2010 (Appendix 3). Mr Savas Er requested to enter the refusal made by his brother the previous evening, however a copy was obtained prior to this as it was clear that had the visit not have been taking place, this entry would not have been made.

CCTV – It is a condition of the licence that CCTV is maintained and stored for at least 30 days. During the visit on 18th March 2011 it was requested that a copy of the CCTV be produced on CD-R to cover the period of events the night before. Mr Savas Er confirmed this would be possible and would be ready either later that afternoon or for Monday morning. It was agreed that a Trading Standards Officer would collect the CCTV on the Monday.

On Monday 21st March 2011, Trading Standards Officer Gillian Powell attended Marmaris and was told the CD-R of CCTV footage had been produced but had been lost over the weekend. She was told that a new copy would be prepared by the following day.

On Tuesday 22nd March 2011, Trading Standards Officer Oliver Jewell attended the shop again and asked for the CCTV footage. Mr [REDACTED] phoned his brother Mr Savas Er and passed the phone to Oliver Jewell. Mr Savas Er explained that he had tried to make a new copy but it appeared that he had "accidentally deleted all the data" from the CCTV system and he was unable to produce a new copy as required by the premises licence.

Training - It is a condition of the premises licence that staff training be auditable and available to Police or Trading Standards Officer. While it is acknowledged that Marmaris is a family run business, no record of training was available to suggest any training had ever been carried out.

Mr Savas Er was offered the opportunity to attend an interview with Trading Standards Officers to discuss the above failings (copy of letter sent 28th April 2011 – Appendix 4) however this request has not received a response.

A review of the premises licence is therefore requested by this department to deal with the apparent lack of compliance with the objectives of the Licensing Act and the failure to abide by existing conditions.

As no additional meaningful conditions can be added to the licence to directly deal with the issue of the proxy sales and the failure to abide by existing conditions, it is requested that the licence be suspended for a period of at least 14 days.

It is also requested that the following conditions be added to the premises licence:

The sale of alcohol may only be transacted by a personal licence holder at all times. At any time when no personal licence holder is present to make the sale a sign will be displayed prominently to make purchasers aware that there are to be 'NO ALCOHOL SALES'.

The existing conditions 12, 13 and 14 should be amended to reflect a change in best practice recommendations from 'Challenge 21' to 'Challenge 25'

Additional posters will be displayed to the agreement of Kent Police and Local Authority Officers to raise awareness of customers as to the issue of 'proxy sales'.

Please tick yes

Have you made an application for review relating to this premises before ☐

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

If you have made representations before relating to this premises please state what they were and when you made them



Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent
(See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature



Date

26/5/11

Capacity

AREA MANAGER

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)
Oliver Jewell
Kent County Council Trading Standards
PO Box 286

Post town
West Malling

Post Code
ME19 4HW

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) oliver.jewell@kent.gov.uk

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

APPENDIX A

TS59

KENT COUNTY COUNCIL - TRADING STANDARDS STATEMENT OF WITNESS

Statement of (full name): Clare Michelle Stringer

Age of Witness: 31

Date of birth: 2nd June 1979

Occupation of Witness: Trading Standards Officer

This statement (consisting of one pages 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.

Signed... *C. Stringer* Date... *26/5/11*

I am employed by Kent County Council as a Trading Standards Officer for the Trading Standards Department, working from the West Kent Area Office, which is currently located at 8 Abbey Wood Road, Kings Hill, West Malling, ME19 4YT. During 2010 I was involved in a project called The Kent Community Alcohol Project which took place in Maidstone town centre. My role included visiting off-licences in this area to advise them on the sale of age restricted products. Advice included operating a Challenge 25 policy and keeping a recorded of refused sales of age restricted products. I visited Marmaris, 44 Mote Road, Maidstone, Kent, ME15 6ES to conduct these advisory visits on 12 May 2010, 27 May 2010 and 11 October 2010. Following the visit on the 27 May 2010, on 23 June 2010 I sent letters to the three people I spoke to on this visit. On 14 March 2011 I attempted to visit Marmaris again as I had been passed an intelligence report stating 16 year olds had been bragging they had purchased beer and wine from there. Unfortunately the shop was not open by 8.50 am, so I placed a hand written notice through the shops front door advising them of the complaint and asking them to contact me. On the same day I sent the Designated Premise Supervisor, Mr Savas ER, a letter by 1st class post. *C. Stringer*

Signed... *C. Stringer* Date... *26/5/11*

Mr Savas Er
Marmaris
44 Mote Road
Maidstone
ME15 6ES

TRADING STANDARDS
West Kent Area Office
17 Kings Hill Avenue
Kings Hill
West Malling
Kent ME19 4UL
Tel: 01732 525291
Fax: 01732 525319

Website: www.tradingstandards.gov.uk/kent
Email: Clare.stringer@kent.gov.uk
Ask for: Clare Stringer
Ref: CS/273565
Date: 23 June 2010

Dear Mr Er

Licensing Act 2003

Further to my visit to Marmaris on 27th May, I write to confirm the matters I discussed with you and your colleagues. The visit included advice on:

- The benefits of using Challenge 25. This is where anyone who appears under 25 should be asked for valid proof of age before being sold age restricted products such as alcohol. This will provide a clear margin of error when judging a young persons' age.
- I enclose posters titled 'Under 25', 'it is a criminal offence to buy alcohol on behalf of a child' and 'it is an offence for persons under 18 years to purchase or attempt to purchase alcohol'.
- A training folder has been previously left at Marmaris. I recommend you read the information in the folder Kent Trading Standards has provided, drawing particular attention to the sections on Challenge 25 and Making the Refusal. I recommend you sign and date any information you read and ensure your staff do the same.
- The licensees and business owner should ensure all staff training is up to date. Training can include anything your employers asks staff to read or what is discussed.
- It is advisable to maintain a refusal book to log all refused sales. Refusals must be recorded by every person who serves customers regardless of if the person serving is paid or unpaid helping out. Licensees should regularly review the refusals log and follow up with staff members if refusals are not being regularly recorded. Enclosed are two examples of a refusals register which you may use.
- Only valid proof of age, which displays a picture of the customer, should be accepted. I would recommend that you only accepted photo driving licences, passports or proof of age cards which display a 'pass' hologram. Photocopies must not be accepted.

- You should tell your employees what the shops policy is concerning the sale of age restricted products. It is recommended your policy includes:
 1. What proof of age you expect staff to accept as age identification.
 2. That you have a Challenge 25 policy. You must ensure staff understand what this means.
 3. Keeping a refusals record.It is advisable that your shops policy is in writing, with a copy kept with the refusals log.
- You should be aware that Trading Standards Authorities, including this Service, make test purchases of various age restricted products using volunteers under the relevant legal age. This means that any business may be tested in this way. If you sell to a volunteer you will be committing a criminal offence for which you may be prosecuted and the need for a licence to be reviewed would also be considered.

Further guidance notes which may be useful for business and consumers may be viewed on our website www.tradingstandards.gov.uk/kent. Please contact me if you have any questions.

Yours sincerely

Clare Stringer
Trading Standards Officer

Mr [REDACTED]
Marmaris
44 Mote Road
Maidstone
ME15 6ES

TRADING STANDARDS
West Kent Area Office
17 Kings Hill Avenue
Kings Hill
West Malling
Kent ME19 4UL
Tel: 01732 525291
Fax: 01732 525319

Website: www.tradingstandards.gov.uk/kent
Email: Clare.stringer@kent.gov.uk
Ask for: Clare Stringer
Ref: CS/273565
Date: 23 June 2010

Dear Mr [REDACTED]

Licensing Act 2003

Further to my visit to Marmaris on 27th May, I write to confirm the matters I discussed with you and your colleagues. The visit included advice on:

- The benefits of using Challenge 25. This is where anyone who appears under 25 should be asked for valid proof of age before being sold age restricted products such as alcohol. This will provide a clear margin of error when judging a young persons' age.
- I enclose posters titled 'Under 25', 'it is a criminal offence to buy alcohol on behalf of a child' and 'it is an offence for persons under 18 years to purchase or attempt to purchase alcohol'.
- A training folder has been previously left at Mararis. I recommend you read the information in the folder Kent Trading Standards has provided, drawing particular attention to the sections on Challenge 25 and Making the Refusal. I recommend you sign and date any information you read.
- The licensees and business owner should ensure all staff training is up to date. Training can include anything your employer asks you read or what is discussed.
- It is advisable to maintain a refusal book to log all refused sales, from every person who serves customers regardless of if the person serving is paid or unpaid. Licensees should regularly review the refusals log and follow up with staff members if refusals are not being regularly recorded. Enclosed are two examples of a refusals register which you may use.
- Only valid proof of age, which displays a picture of the customer, should be accepted. I would recommend that you only accepted photo driving licences, passports or proof of age cards which display a 'pass' hologram. Photocopies should not be accepted.

- You should check with your employer what their policy is concerning the sale of age restricted products which includes proof of age and keeping a refusals record.
- You should be aware that Trading Standards Authorities, including this Service, make test purchases of various age restricted products using volunteers under the relevant legal age. This means that any business may be tested in this way. If you sell to a volunteer you will be committing a criminal offence for which you may be prosecuted and the need for your employers a licence to be reviewed would also be considered.

Further guidance notes which may be useful for business and consumers may be viewed on our website www.tradingstandards.gov.uk/kent. Please contact me if you have any questions.

Yours sincerely

Clare Stringer
Trading Standards Officer

Mr [REDACTED]
Marmaris
44 Mote Road
Maidstone
ME15 6ES

TRADING STANDARDS
West Kent Area Office
17 Kings Hill Avenue
Kings Hill
West Malling
Kent ME19 4UL
Tel: 01732 525291
Fax: 01732 525319

Website: www.tradingstandards.gov.uk/kent
Email: Clare.stringer@kent.gov.uk
Ask for: Clare Stringer
Ref: CS/273565
Date: 23 June 2010

Dear Mr [REDACTED]

Licensing Act 2003

Further to my visit to Marmaris on 27th May, I write to confirm the matters I discussed with you and your colleagues. The visit included advice on:

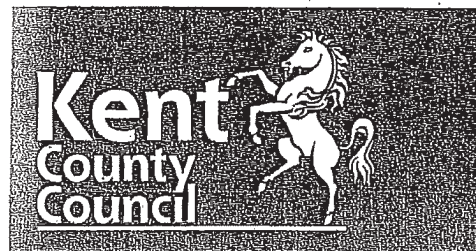
- The benefits of using Challenge 25. This is where anyone who appears under 25 should be asked for valid proof of age before being sold age restricted products such as alcohol. This will provide a clear margin of error when judging a young persons' age.
- I enclose posters titled 'Under 25', 'it is a criminal offence to buy alcohol on behalf of a child' and 'it is an offence for persons under 18 years to purchase or attempt to purchase alcohol'.
- A training folder has been previously left at Mararis. I recommend you read the information in the folder Kent Trading Standards has provided, drawing particular attention to the sections on Challenge 25 and Making the Refusal. I recommend you sign and date any information you read.
- The licensees and business owner should ensure all staff training is up to date. Training can include anything your employer asks you read or what is discussed.
- It is advisable to maintain a refusal book to log all refused sales, from every person who serves customers regardless of if the person serving is paid or unpaid. Licensees should regularly review the refusals log and follow up with staff members if refusals are not being regularly recorded. Enclosed are two examples of a refusals register which you may use.
- Only valid proof of age, which displays a picture of the customer, should be accepted. I would recommend that you only accepted photo driving licences, passports or proof of age cards which display a 'pass' hologram. Photocopies should not be accepted.

- You should check with your employer what their policy is concerning the sale of age restricted products which includes proof of age and keeping a refusals record.
- You should be aware that Trading Standards Authorities, including this Service, make test purchases of various age restricted products using volunteers under the relevant legal age. This means that any business may be tested in this way. If you sell to a volunteer you will be committing a criminal offence for which you may be prosecuted and the need for your employers a licence to be reviewed would also be considered.

Further guidance notes which may be useful for business and consumers may be viewed on our website www.tradingstandards.gov.uk/kent. Please contact me if you have any questions.

Yours sincerely

Clare Stringer
Trading Standards Officer



Mr Savas Er
Marmaris
44 Mote Road
Maidstone
ME15 6BS

TRADING STANDARDS
West Kent Area Office
17 Kings Hill Avenue
Kings Hill
West Malling
Kent ME19 4UL
Tel: 01732 525291
Fax: 01732 525319

Website: www.tradingstandards.gov.uk/kent
Email: Clare.stringer@kent.gov.uk
Ask for: Clare Stringer
Ref:
Date: 14 March 2011

Dear Mr Er

Licensing Act 2003

I write further to my attempted visit to you today, Monday 14th March 2011. The purpose of the visit was to advise you on the sale of age restricted products, as this department very recently received information that a 16 year old purchased beer and wine from Marmaris. Please contact me so I can provide the advice over the phone.

The visit would have included advice on:

- The training folder previously left at Marmaris. I recommend you read the information in the folder Kent Trading Standards has provided, drawing particular attention to the sections on Challenge 25 and Making the Refusal. I recommend you sign and date any information you read and ensure your staff, and anyone else who may serve customers, do the same.
- The benefits of using Challenge 25. This is where anyone who appears under 25 should be asked for valid proof of age before being sold age restricted products such as alcohol. This will provide a clear margin of error when judging a young persons' age.
- The licensees and business owner should ensure all staff training is up to date. Training can include anything your employers asks staff to read or what is discussed. For example this letter can be shared with staff and form part of your training records.
- It is advisable to maintain a refusal book to log all refused sales. Refusals must be recorded by every person who serves customers regardless of if the person serving is paid or unpaid helping out. Licensees should regularly review the refusals log and follow up with staff members if refusals are not being regularly recorded.
- Only valid proof of age, which displays a picture of the customer, should be accepted. I would recommend that you only accepted photo driving licences, passports or proof of age cards which display a 'pass' hologram. Photocopies must not be accepted.

Clive Bainbridge
Head of Trading Standards



- You should tell your employees what the shops policy is concerning the sale of age restricted products. It is recommended your policy includes:
 1. What proof of age you expect staff to accept as age identification.
 2. That you have a Challenge 25 policy. You must ensure staff understand what this means.
 3. Keeping a refusals record.It is advisable that your shops policy is in writing, with a copy kept with the refusals log.
- You should be aware that Trading Standards Authorities, including this Service, make test purchases of various age restricted products using volunteers under the relevant legal age. This means that any business may be tested in this way. If you sell to a volunteer you will be committing a criminal offence for which you may be prosecuted and the need for a licence to be review would also be considered. I strongly recommend you remind staff they may be tested in this way and the reasons why they must not sell alcohol or tobacco to under 18's. It would be advisable to show people who serve your customers this letter on their next shift, asking them to sign and date it to show they have read and understood it. This can then form part of your training records, as previously mentioned in this letter.

Further guidance notes which may be useful for business and consumers may be viewed on our website www.tradingstandards.gov.uk/kent.

I look forward to hearing from you.

Yours sincerely

Clare Stringer
Trading Standards Officer

Business Advice



Business Name

MARIMARIS

Legal Entity

Address

Postcode

Telephone Number

Dear Sir

During the course of a visit to your premises the following points were noted.

1. Please share the information in this notice with all people who serve customers.
 2. Kent Trading Standards have received a report that this shop sold beer and wine to 16 year old.
 3. Please remind all person who serve why they must not sell alcohol to under 18's - legal and social.
To avoid making a misjudgement of age I recommend all people who serve alcohol ask for proof of age if a customer appears under 25 - following a challenge 25 policy.
Ensure all people who serve know Trading Standards do send in underage volunteers to buy alcohol. The penalty could be a fixed penalty notice, or criminal prosecution with a fine and criminal record.
The shop's alcohol licence could be reviewed or even suspended.
I recommend you keep a refusals log to show all people who serve customers regularly refuse sales + ask for proof of age.
- I have attempted to visit you today 14/3/2011.
Please contact me 01732 525 291

Failure to follow the advice outlined above as being a legal requirement may lead to you breaching the law and facing legal action. Please contact me if you have any questions.

Issued by (please print name)

CLARE STRINGER

Officer Number

237

Telephone number

01732 525 291

Signed

Cl Stringer

Dated

14/3/11

Received by (please print name)

Position

Signed

Dated

Reference Number

TS 1474

Data Protection Act

Any personal information provided will be processed in accordance with the requirements of the Data Protection Act 1998.

KENT COUNTY COUNCIL - TRADING STANDARDS STATEMENT OF WITNESS

Statement of (full name): Oliver Lee Jewell
Age of Witness: 30 Date of birth: 22/11/1980
Occupation of Witness: Trading Standards Officer

This statement (consisting of three pages 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.

Signed... *Oliver Jewell* Date... 18/5/11

I am a Trading Standards Officer for Kent County Council based at 8 Abbey Road, Kings Hill, Kent, ME19 4YT. On the 17th March 2011 I was leading a test purchase operation in the Maidstone area for the purchase of alcohol with a fifteen year old volunteer. At approximately 19.05 I entered Marmaris, 44 Mote Road, Maidstone, Kent and browsed the shop waiting for the volunteer to enter. There was one male in the shop behind the counter who I now know to be Mr [REDACTED] and another male was in the shop as a customer. The 15 year old volunteer selected a bottle of Bacardi Breezer and went to the till where I joined in a queue immediately behind her. Mr [REDACTED] asked for ID and when the volunteer replied that she had none he refused the sale. The volunteer left the shop, but the other male in the shop immediately stated she was "his mate's sister" and that she was 19 years old. Mr [REDACTED] pointed to the Challenge 25 posters by the till to indicate that without ID he could not serve her anyway. The customer in the shop then asked if he could buy the alcohol on behalf of the volunteer and give it to her. Mr [REDACTED] said this was "ok" and the male said he would catch up with her to see if she wanted him to do so. The male customer ran off

Signed... *Oliver Jewell* Date... 18/5/11

KENT COUNTY COUNCIL - TRADING STANDARDS

STATEMENT OF WITNESS

Page 2

Continuation of statement of Oliver Lee Jewell

out of the shop. I made my purchase and left the shop. As I was walking up the road I could see the male talking to our volunteer who was being accompanied back to the car by Trading Standards Officer Samantha Goacher. The volunteer and Samantha made excuses and the male left. I returned to Marmaris at approximately 14.20 on 18th March 2011. Mr [REDACTED] was again behind the till. I began explaining the purpose of my visit when Mr [REDACTED] asked if his brother could join us. Mr Savas Er, the premises licence holder, came to the shop. I asked Mr Savas Er if he had received the letter from Trading Standards Officer, Clare Stringer, earlier in the week as I knew she had written to Mr Savas Er to outline recent concerns and remind Mr Savas Er of best practice. Mr Savas Er confirmed that he had received this letter. I went on to explain the incident that occurred the night before and that it was apparent that had the volunteer not refused the offer, that a proxy sale of alcohol would have been made and whilst no criminal offence would take place on their part by doing so, knowingly allowing this was failing in the Licensing Act objective to 'Protect Children from Harm'. I asked to see a copy of the refusal book as I knew it was a condition of the licence that all refused sales be recorded. I was shown a single sheet of paper that formed part of the Kent Community Alcohol Partnership (KCAP) advice pack. This page had been started on 11/10/10 and contained a total of 23 entries, the last being on 22/12/10. I asked if a copy could be made to which Mr Savas Er initially asked his brother to complete an entry to record the refused sale the previous night, however I asked that a copy be made prior to this being added as it was my belief had I not raised the matter that the refusal in question would have been recorded. I also asked if any

Signed... *Oliver Jewell*

Date... 18/5/11

KENT COUNTY COUNCIL - TRADING STANDARDS

STATEMENT OF WITNESS

Continuation of statement of Oliver Lee Jewell

Page 3

training records were available for any of the staff working in the shop as this was another condition on their licence, however despite having a template form as part of their 'KCAP' pack this had been left unused. Finally as it was a condition on their licence to make available upon request a copy of CCTV to the police or local authority officers within 48 hours, I asked for a copy of the CCTV from the previous evening between 19:00 and 19:15 hours to be made. Mr Savas Er confirmed this would be done over the weekend and would be collected on Monday 21st March 2011 in the afternoon. When visited by another officer this was not ready so I arranged to visit on the following day. On Tuesday 22nd March 2011 I visited Marmaris at approximately 10.20am. Mr [REDACTED] was in the shop who phoned Mr Savas Er and passed the phone to me to speak to him. Mr Savas Er explained that he had tried to make another copy of the CCTV but when he had gone on the system this time it appeared that all the data had been accidentally deleted and therefore it would not be possible to make a copy of the footage as requested. I reminded Mr Savas Er that this was a condition of his licence. On 28th April 2011 I wrote to Mr Savas Er to offer him the chance as the Premises Licence Holder, the opportunity to discuss the incident on 17th March 2011 and the subsequent breaches of conditions on the premises licence, however as of 18th May 2011 no response to this invitation has been received. OS

Signed *Oliver Lee Jewell*

Date ... 18/5/11

Refusal register

Kent Community Alcohol Partnership

CY16089-10 01795419182
For Ref

information pack
information pack

Week commencing
week commencing

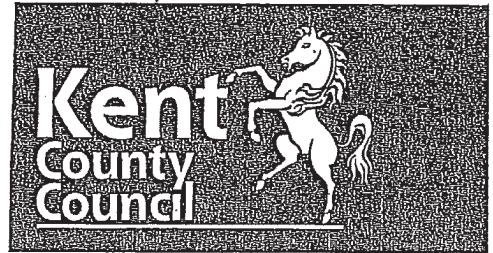
Page
Page

Date	Time	Sex	Approx Age	Product	Reason	Initials
11/10/2010	15:44	M (F)	Under 18 / 19-25	A (T) O	under age	SAS S.E
13/10/2010	17:49	M (F)	Under 18 / 19-25	A (T) O	under age	SAS S.E.R
14/10/10	21:44	M (F)	Under 18 / 19-25	A (T) O	Drunk	SAS S.E.R
15/10/10	16:49:38	M (F)	Under 18 / 19-25	A (T) O	under age	SAS C.E
17/10/10	13:32:21	M (F)	Under 18 / 19-25	A (T) O	under age	SAS C.E.R
18/10/10	15:37:11	M (F)	Under 18 / 19-25	A (T) O	under age	SAS C.E.R
19/10/10	18:40:51	M (F)	Under 18 / 19-25	A (T) O	under age	SAS C.E.R
21/10/10	14:18	M (F)	Under 18 / 19-25	A (T) O	Small child	SAS S.E.R
21/10/10	21:03	M (F)	Under 18 / 19-25	A (T) O	under age	SAS S.E.R
24/10/10	11:19	M (F)	Under 18 / 19-25	A (T) O	under age	SAS S.E.R
24/10/10	21:50	M (F)	Under 18 / 19-25	A (T) O	wrong ID	S.E.R
25/10/10	20:04	M (F)	Under 18 / 19-25	A (T) O	under age	S.E.R
29/10/10	18:30	M (F)	Under 18 / 19-25	A (T) O	No ID under age	S.E.R
5/11/10	14:25	M (F)	Under 18 / 19-25	A (T) O	No ID under age	C.E.R
6/11/10	17:49	M (F)	Under 18 / 19-25	A (T) O	No ID under age	C.E.R
6/11/10	19:08	M (F)	Under 18 / 19-25	A (T) O	No ID under age	C.E.R
6/11/10	20:13	M (F)	Under 18 / 19-25	A (T) O	No ID under age	C.E.R
6/11/10	20:18	M (F)	Under 18 / 19-25	A (T) O	Passport Copy	C.E.R
7/11/10	12:45	M (F)	Under 18 / 19-25	A (T) O	No ID under age	C.E.R
18/11/10	16:58	M (F)	Under 18 / 19-25	A (T) O	is Not his passport	C.E.R
19/11/10	14:40	M (F)	Under 18 / 19-25	A (T) O	Passport Copy	C.E.R
20/11/10	22:30	M (F)	Under 18 / 19-25	A (T) O	No ID under age	C.E.R
22/12/2010	21:40	M (F)	Under 18 / 19-25	A (T) O	No ID	Saver
		M (F)	Under 18 / 19-25	A (T) O		

Checked by

Date

Date eg 5/9	Time	Male Female	Under 18 19 to 25	Alcohol Tobacco Other	eg no ID	Staff to initial
----------------	------	----------------	----------------------	-----------------------------	----------	---------------------



Mr Savas Er
Marmaris
44 Mote Road
Maidstone
Kent
ME15 6ES

TRADING STANDARDS
West Kent Area Office
PO Box 286
West Malling
Kent ME19 4HW
Tel: 01732 525291
Fax: 01732 525319

Website: www.tradingstandards.gov.uk/kent
Email: oliver.jewell@kent.gov.uk
Ask for: Oliver Jewell
Ref: 307101
Date: 28 April 2011

Dear Mr Savas Er

Premises Licence MAID0185/LPRM/3983

Further to my previous visits to your shop, Marmaris, I am writing to invite you to attend a meeting at our office. I would like to take this opportunity to discuss with you the objectives of the Licensing Act in relation to the 'Protection of Children from Harm'.

As I have previously explained to you, following an incident witnessed during a test purchase operation on 17th March 2011, it is believed that your premises may not be adequately upholding the objective of 'Protection of Children from Harm' by virtue of the fact it was apparent that had the underage volunteer not declined the opportunity, that a proxy sale would have been made in the knowledge of the person serving at the time of the incident.

I have previously requested a copy of the CCTV held by you for 17th March 2011 between 19:00 and 19:15 hours. You have since told me that you believe you have accidentally deleted all footage. I must remind you that as per your premises licence there are embedded conditions which appear to have been breached in this instance. If in the meantime you have managed to recover the CCTV footage I would ask that a copy is brought to our meeting or arrangements made for its collection.

Finally as I have previously advised you, as you appear to be failing in the above objective of the Licensing Act 2003, this authority has the option to consider submitting an application to review your premises licence. I would therefore urge you to carefully consider the measures already in place and if appropriate bring evidence of any changes made since my last visit to our meeting.

I would be grateful if you could contact me at the above office within the next 14 days in order to arrange a mutually convenient time for a meeting to be held. The meeting may be tape recorded

Clive Bainbridge
Head of Trading Standards



**INVESTORS
IN PEOPLE**

004328

to enable an accurate record of what is said and agreed upon to be maintained and a copy of this recording will be made available to you if requested.

Yours sincerely

Oliver Jewell
Trading Standards Officer

Premises Licence

Maidstone Borough Council
Licensing Section
Maidstone House
King Street
Maidstone
Kent
ME15 6JQ

APPENDIX B

Premises Licence Number – MAID0185/LPRM/3983

Part 1 – Premises details

Postal address of premises or if none, Ordnance Survey map reference or description	
Marmaris 44 Mote Road Maidstone Kent	
Post Town Maidstone	Post Code ME15 6ES
Telephone Number 01622 766322	

Where the licence is time limited the dates
N/A

Licensable activities authorised by the licence:-
<ul style="list-style-type: none">• Sale of Alcohol

The times the licence authorises the carrying out of licensable activities:-
<ul style="list-style-type: none">• Supply of Alcohol 08:00 – 22:30 Monday to Thursday 08:00 – 23:00 Friday 09:00 – 23:00 Saturday 10:30 – 22:00 Sunday

The opening hours of the premises
08:00 – 22:30 Monday to Thursday 08:00 – 23:00 Friday 09:00 – 23:00 Saturday 10:30 – 22:00 Sunday

(1) Insert licensing authority details

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

Off

Part 2

Name, (registered) address, telephone number and E-mail (where relevant) of holder of premises licence

**Mr Savas Er
44a Mote Road
Maidstone
Kent
ME15 6ES**

Tel: 07904 988765

Registered number of holder, for example company number, charity number (where applicable)

N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

**Mr Savas Er
44a Mote Road
Maidstone
Kent
ME15 6ES**

Tel: 07904 988765

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

LN/0000-2053 – London Borough of Haringey

1. No supply of alcohol may be made under the premises licence –

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or**
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.**

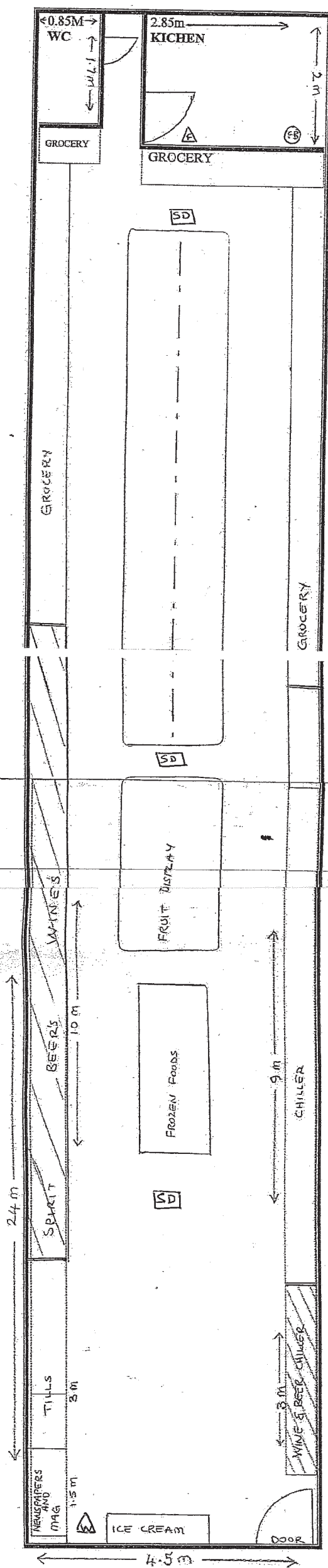
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

- 3. All incidents of a criminal nature that occur at the premises shall be reported to the Police.**
- 4. CCTV shall be installed in agreement with the Police and will cover all exits, entrances and public areas of the licensed premises.**
- 5. All CCTV cameras and recording equipment, including video tapes if used shall be well maintained, kept in good working order and shall be subject to regular testing and inspection which shall be auditable.**
- 6. Any recording made via the use of the CCTV will be retained and stored for a minimum of 30 days and made available to the police or local authority on request or in any case within 48 hours of a request being made.**
- 7. A written refusals book shall be kept at the premises and all staff fully trained in its use. The book shall be bound and clearly marked. The following information shall be recorded in this book:-**
 - a) Time of refusal**
 - b) Date of refusal**
 - c) The item refused**
 - d) Name or description of person refused sale**
 - e) Reason for refusal**
 - f) Name of staff member making refusal**
- 8. The refusal book shall be made available for inspection by any Police Officer, Local Authority Licensing Officer or trading standards officer attending at any reasonable time.**
- 9. The DPS will be a member of the town centre Mailsafe 'Storenet' scheme or any such successor scheme.**
- 10. Notices shall be prominently displayed asking customers to leave quietly.**
- 11. A trade refuse agreement shall be arranged and maintained at all times.**
- 12. All staff at the premises shall be trained in the Challenge 21 Policy.**
- 13. The Challenge 21 posters shall be prominently displayed in all areas of the shop where alcohol is displayed and at the point of entry to the shop and the point of sale.**
- 14. Any person who appears to be under 21 years shall be required to produce identity proving their age if purchasing alcohol.**
- 15. The only ID acceptable shall be a passport, photographic Driving Licence, or a 'PASS' marked accredited identification such as a citizen card.**
- 16. All staff training shall be auditable and be available to any Police Officer, Local Authority Licensing Officer or Trading Standards officer at any reasonable time.**
- 17. Appropriate fire safety procedures shall be in place including fire extinguishers (H2O and CO2), internally illuminated fire exit signs, a smoke detector and emergency lighting.**
- 18. All emergency exits shall be clearly marked at all times.**
- 19. Emergency escape routes shall be kept free of obstructions at all times.**

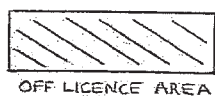
N/A

As attached.

N/A



SCALE 1/50



M = METRE

MARMARIS
44 MOTE ROAD
MAIDSTONE
ME15 6ES

SD SMOKE DETECTOR

W WATER EXTINGUISHER

F FOAM EXTINGUISHER

FB FIRE BLANKET

APPENDIX D

MARMARIS, 44 MOTE ROAD, MAIDSTONE ME15 6ES



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Appendix E

HUMAN RIGHTS

Article 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 1 of the First Protocol

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 6(1)

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Article 10

3. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
4. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

**LICENSING AUTHORITY:
MAIDSTONE BOROUGH COUNCIL**

**Licensing Act 2003 Sub-Committee Hearing Procedure of
Applications for the Review of a Premises Licence or Club Premises
Certificate**

Introduction and Procedure

i) **Introductions**

The Chairman will request all those persons participating in the hearing to identify themselves, starting with the:

- ☐ Members of the sub-committee (who will, if applicable, declare any personal or prejudicial interests)
- ☐ Legal advisor
- ☐ Committee clerk
- ☐ Maidstone Borough Council licensing officers/managers
- ☐ The licence/certificate holder (and any representative)
- ☐ The applicant for review* (and any representative)
- ☐ Each responsible authority (and any representative)
- ☐ Each interested party (and any spokesperson or representative)

ii) **Procedural Matters**

- **Procedure**

The Chairman will:

- ☐ Confirm that all parties are aware of the sub-committee hearing procedure and that each party has a copy of the hearing procedure document.

* Not applicable following a closure order.

- **Submissions**

The Chairman will:

- ☐ Explain that the sub-committee will allow all parties to put their case fully and make full submissions, within a reasonable time frame.

- **Discussion and cross-examination**

The Chairman will:

- ☐ Explain that the sub-committee procedure shall take the form of a discussion led by the sub-committee.
- ☐ Explain that the sub-committee will usually permit cross examination (conducted within a reasonable time frame).

- **Disruptive Behaviour**

The Chairman will:

- ☐ Explain that where any person attending the hearing behaves in a disruptive manner, the sub-committee may direct that person to leave the hearing (including temporarily) and thereafter the person may submit to the sub-committee in writing any information which the person would have been entitled to give orally had the person not been required to leave the hearing.

- **Reading of Papers**

The Chairman will:

- ☐ Confirm that all sub-committee members have pre-read all the papers and any other documents contained in the report regarding the hearing.

- **Draft Conditions**

The Chairman will:

- ☐ Enquire whether draft conditions have been agreed between the licence/certificate holder and any of the other parties for the sub-committee to consider.

- **Witnesses**

The Chairman will:

- ☐ Enquire whether any parties request to have any witnesses give evidence at the hearing; and if so grant the request unless the request is unreasonable.
- ☐ Invite the parties, where appropriate, to appoint a spokesperson.

The Hearing

Outline of the Application and Representations

- ☐ The Chairman will ask the legal advisor or community services manager to briefly outline the application and all representations regarding the application.

i) The Applicant for Review

- ☐ Opening remarks by the applicant for review (or their representative).
- ☐ Evidence of the applicant for review and any witnesses.
- ☐ After each person has given evidence the person may be questioned by the licence/certificate holder, each responsible authority, interested party and sub-committee member.
- ☐ If necessary, the applicant for review (or their representative) may clarify any matter that arose during questioning.

ii) Responsible Authorities (where applicable)

RESPONSIBLE AUTHORITY	Tick if applicable
Police	
Trading standards	
Environmental Health	
Child Protection (Social Services)	
Planning	
Fire and Rescue	

- ☐ Opening remarks by the officer representing the responsible authority (or their representative).
- ☐ Evidence of the responsible authority officer and any witnesses.
- ☐ After each person has given evidence the person may be questioned by the applicant for review, the licence/certificate holder, each other responsible authority, interested party and sub-committee member.
- ☐ If necessary, the officer (or their representative) may clarify any matter that arose during questioning.

iii) Interested Parties

- ☐ Opening remarks by the interested party (or spokesperson/representative).
- ☐ Evidence of the interested party and any witnesses.

- ☐ After each person has given evidence the person may be questioned by the applicant for review, the licence/certificate holder, responsible authorities, each other interested party and sub-committee member.
- ☐ If necessary, the interested party (or spokesperson/representative) may clarify any matter that arose during questioning.

iv) The Licence/Certificate Holder

- ☐ Opening remarks by the licence/certificate holder (or their representative).
- ☐ Evidence of the licence/certificate holder and any witnesses.
- ☐ After each person has given evidence the person may be questioned by the applicant for review, each responsible authority, interested party and sub-committee member.
- ☐ If necessary, the licence/certificate holder may clarify any matter that arose during questioning.

Closing Speeches

In the following order:

- ☐ **The applicant for review**
- ☐ **Each responsible authority**
- ☐ **Each interested party**
- ☐ **The licence/certificate holder**

End of Hearing

- ☐ The Chairman will ask the members of the sub-committee if they have any final questions for any party to the hearing.
- ☐ The Chairman will ask the legal advisor whether there are any further matters to be raised or resolved before the hearing is closed.
- ☐ The Chairman will invite the legal advisor to remain with the sub-committee during its deliberations.

- ☐ The Chairman will bring the hearing to a close and shall declare that the sub-committee will retire, to private session, to consider the application, all relevant representations, evidence, the relevant extracts of Licensing Authority's Statement of Licensing Policy, the relevant extracts of the National Guidance issued under section 182 of The Licensing Act 2003 and the licensing objectives under the Licensing Act 2003.
- ☐ The Chairman shall ask all other persons to withdraw from the room.

The Decision

The Chairman shall declare in public session:

- ☐ The sub-committee's determination.
- ☐ All parties to the hearing will receive a copy of the written Determination Notice regarding the sub-committee's determination.
- ☐ All parties may appeal against the sub-committee's decision within 21 days beginning with the day on which the appellant is notified of the Licensing Authority's written determination. Appeals must be lodged with the Magistrates' Court. The decision of the sub-committee does not take effect until the period for appealing has ended, or if there is an appeal, upon completion of the appeal. Parties should be aware that the Magistrates Court may make an order with respect to costs on any appeal.
- ☐ The hearing is formally closed.