

Review of premises license for Tiger Food and Wine – 20 Lordship Lane, London N17

The Committee carefully considered the application for a review of the premises licence for Tiger Food and Wine, the representations of Trading Standards, the Licensing Authority, Public Health and the Licence holder, the Council's Statement of Licensing Policy and the s182 Licensing Act 2003 Statutory Guidance.

The Committee resolved:

- a) To suspend the Licence for a period of 3 months.
- b) To impose the following conditions on the Licence
  1. The business shall adopt a "Challenge 25" proof of age scheme.
  2. Posters shall be displayed in prominent positions around the till advising customers of the "proof of age" required under the "Challenge 25" scheme at the premises.
  3. A refusals register shall be maintained to record instances where age restricted product sales are refused. These records shall be made available for inspection by Police and Authorised Council officers on request.
  4. The refusals register shall contain:  
  
The date and time of the incident,  
The product which was the subject of the refusal  
A description of the customer,  
The name of the staff member who refused the sale  
The reason the sale was refused.  
This book shall be made available to Police and all authorised council officers on request.
  5. All staff responsible for selling alcohol shall be receive training on induction and refresher training every 6 months thereafter, on the requirements of the Licensing Act 2003 and all other age restricted products stocked on the premises. Written records of this training signed and dated by the person receiving the training and the trainer shall be retained and made available to Police and authorised council officers on request.
  6. Only Employees of the business who have been formally trained on licensing requirements and age restricted sales may serve behind the counter.
  7. Alcohol sales will only be conducted by a member of staff who is a Personal Licence Holder.
  8. The Premises Licence Holder and Designated Premises Licence Holder shall ensure alcohol is only purchased from a wholesaler registered with HMRC under the Alcohol

Wholesaler Registration Scheme (AWRS).and shall produce receipts for the same upon request for inspection.

9. Only the Premises Licence Holder or Designated Premises Supervisor shall purchase alcohol or cigarette/tobacco stock.
10. The Premises Licence Holder and Designated Premises Supervisor shall ensure that they do not take part in any stock swaps or lend or borrow any alcohol goods from any other source unless the source is another venue owned and operated by the same company who also purchase their stock from an authorised wholesaler.
11. The Premises Licence Holder shall ensure all receipts for alcohol goods purchased include the following details:
  - i. Seller's name and address
  - ii. Seller's company details, if applicable
  - iii. Seller's VAT details, if applicable
  - iv. AWRS registration number
  - v. Vehicle registration detail, if applicable
12. Legible copies of receipts for alcohol purchases shall be retained on the premises for six months and made available to Authorised Officers on request.
13. An ultraviolet light shall be purchased and used at the store to check the authenticity of all stock purchased which bears a UK Duty Paid stamp.
14. If the Licence Holder or Designated Premises Supervisor becomes aware that any alcohol may be not duty paid, they shall inform the Council of this immediately.
15. Only alcohol which is available for retail sale shall be stored at the licensed premises.
16. All tobacco products which are not on the covered tobacco display cabinet shall be stored in a container clearly marked 'Tobacco Stock'. This container shall be kept within the storeroom or behind the sales counter.
17. Tobacco shall only be taken from the covered tobacco display cabinet behind the sales counter in order to make a sale.
18. Only tobacco which is available for retail sale can be stored at the licensed premises.
19. The Designated Premises Supervisor shall regularly check the refusals book to ensure it is being consistently used by all staff. They shall sign and date when inspected.
20. After evidence of any legal non-compliance relevant to the promotion of the Licensing Objectives is found, the Premises Licence Holder shall attend a meeting, upon reasonable request, with appropriate Responsible Authorities at the Council Offices or other suitable location. This condition does not require the licensee to say anything while under caution.

21. A CCTV system should be installed and maintained which should be able to record colour footage for a period of 31 days and be able to capture clear video of persons faces and shoulders when they enter the premises and cover the area of the sales counter. These images should be able to be loaded onto disc or other electronic media should a Police Officer or Authorised Council Officer require a copy. Where copies of recordings are requested, they should be provided in a reasonable time and in a format which can be viewed without specialist software. Any malfunction in the operation of the CCTV system shall be reported to the Licensing Authority within 24 hours.
22. All Staff left in charge of the premises should be trained in the operation of CCTV and the production of copies of recordings ‘

## Reasons

The Committee had regard to the 182 guidance which recommends that where licensed premises are being used for criminal activity such the sale or storage of smuggled tobacco or alcohol, this should be treated particularly seriously. The Guidance also requires licensing authorities to take very seriously the illegal sale of alcohol to minors.

The Committee were satisfied that the Licence holder was aware of his statutory obligations and the requirements of good practice in respect of the licensed premises, having been a member of the Council's Responsible Retailer Scheme since 2015.

The discovery of illicit tobacco on the premises on 30<sup>th</sup> April 2021 in circumstances where it was possible that it was being offered for sale is of considerable concern. The Committee did not find the licence holder's explanation that the tobacco belonged to his father and was for his personal use and for giving to friends, credible, because different brands were found, there was a combination of cigarettes and hand rolled tobacco and they were found behind the counter and in the stock room. The cigarettes being found in a box with money also suggests that they were for sale.

The Committee were also not convinced by the Licence holder's explanation that the non duty paid alcohol found at the premises had been delivered that morning and consisted of beers he was trying for the first time. The Licence holder was unable to produce an invoice or delivery note on 30<sup>th</sup> April 2021. The invoice he did produce was dated the next day 1<sup>st</sup> May and stamped as paid that day suggesting that the alcohol was purchased and paid for that day. The explanation that the Licence holder gave that he was able to order, take the products and pay later was not credible. There was no evidence that they were bought from a legitimate source earlier than 1<sup>st</sup> May 2021.

On 30<sup>th</sup> April 2021 the Licence holder had breached the licensing condition requiring him to have CCTV in operation at all times, when Trading Standards Officers found the CCTV not to be recording. The explanation that there had been electrical problems the day before and that the Licence holder had erroneously and unbeknown to him not fully carried out the steps to re-enable the CCTV cameras, was also difficult to believe.

The Committee were concerned about the failed test purchase on 1<sup>st</sup> September 2021 when a 16 year old was sold alcohol by the Licence Holder's father. It accepted that he may have had personal issues that were affecting him, but that does not excuse him not undertaking his due diligence in checking whether alcohol was being sold and seeking the appropriate ID. If

any member of staff was unable to comply with their legal obligations the Committee would expect the Licence Holder to ensure that they were not serving customers.

This review arises in connection with crime relating to the sale and storage of smuggled tobacco and alcohol which the Licensing Authority takes very seriously, plus a breach of the licensing condition relating to CCTV and an underage sale. The Impacts of underage sales on young people is considerable and set out in the Public health representation and the premises are located very close to educational establishment increasing the potential risks. In light of these factors the Committee seriously considered revocation of the Licence in accordance with paragraph 11.28 of the statutory guidance. The Licence holder's explanations for the failings that led to the review were not credible and indicated poor management of the business. The Licensing Authority's trust and confidence in the licensee's ability to comply with his obligations has broken down as a result.

The committee however considered the representations made by the Licence holder and gave him credit for trying to turn things around. He has arranged refresher training for all staff, is operating a refusals register, has ensured that the CCTV is operational, will always have a personal licence holder on shift, is operating a Challenge 25 policy, has agreed to all of the conditions suggested by Trading Standards and has agreed to a condition that only the Premises Licence holder or DPS will purchase alcohol or tobacco stock.

The Committee thought that proportionality was very narrowly tipped in favour of a period of suspension, and allowing the licence to continue (as opposed to revocation), subject to far more robust conditions to give the Licence holder an opportunity to demonstrate his ability to promote the licensing objectives.

The Committee could not stress enough how seriously the prevention of crime and disorder and protection of children from harm licensing objectives had been undermined and therefore imposes the maximum 3 month suspension to act as a deterrent to the Licence holder allowing these breaches in future. The Committee understands that a high proportion of the business' revenue comes from the sale of alcohol and that Christmas trade will be affected, but the suspension is proportionate in light of the failings leading to the review and how close the Committee came to revoking the licence.

#### Informative

The Committee wanted the License holder to be in no doubt that the licensing objectives have to be promoted and the Licence holder has to be actively involved to make sure this happens. If he is unable to exercise the necessary control over the day to day running of the business he should consider whether to appoint someone else as DPS.