

<b>11<sup>th</sup> January 2024</b>		<b>ITEM: 5</b>
<b>Licensing Sub-Committee</b>		
<b>Application for a Review of a Premises Licence</b>		
<b>Wards and communities affected:</b> Aveley and Uplands	<b>Key Decision:</b> Non-key	
<b>Report of:</b> Elizabeth Cox – Licensing Officer		
<b>Accountable Assistant Director:</b> Michael Dineen, Assistant Director for Investigation, Enforcement and Community Protection & Safety (Incl. Emergency Planning and Resilience)		
<b>Accountable Director:</b> Claire Demmel – Interim Director of Public Realm		
<b>This report is public</b>		

## **Executive Summary**

An application has been received from Thurrock Trading Standards for a review of the premises licence in respect of **70 High Street, Aveley, RM15 4BX** following a failed test purchase.

### **1. Recommendation(s):**

**1.1 The Sub-Committee considers the application for review and any relevant representations and consider what steps are appropriate for the promotion of the licensing objectives in line with the options open to the committee under the Licensing Act 2003.**

### **2. Introduction and Background:**

**2.1** Applications for reviews of premises licences can be brought by responsible authorities or any other persons under section 51 Licensing Act 2003 one or more of the four licensing objectives.

**2.2** The four licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

### **3. The Application:**

**3.1** On the 20 November 2023, an application for a review was received from Charlotte Edwards, Trading Standards Manager, on behalf of Thurrock

Trading Standards in relation to Aveley Food and Wine, 70 High Street, Aveley, RM15 4BX. The premises licence holder is Sivarajah Jayathanan and Designated Premises Supervisor (DPS) is Sivarajah Kannathanan.

3.2 The application relates to a failed test purchase operation at the premises whereby a nicotine product (disposable vape) was sold to an underage volunteer. A full copy of the application and supporting materials is attached as **Appendix 1**.

3.3 A copy of the existing premises licence and a map of the local area is attached as **Appendix 2**.

3.4 Any representation must relate to a particular premises and must be relevant to the promotion of one or more of the four licensing objectives.

3.5 No other representations were received during the consultation period

#### **4. Reasons for Recommendation:**

4.1 The following options are available to the Licensing Sub-Committee:

- Do nothing with the licence;
- Modify the conditions of the premises licence. This can include adding new conditions or alterations to existing conditions e.g. reducing the hours of operation or removing a licensable activity from the licence;
- The removal of the designated premises supervisor from the licence;
- To suspend the licence for a period not exceeding three months;
- To revoke the licence

4.2 As part of the review application, Trading Standards have included the following conditions which may be appropriate to add to the premises licence:

1. A refusals record shall be maintained at the premises that details all refusals to sell age restricted products. Each entry shall, as a minimum, record the date and time of the refusal and the name of the staff member refusing the sale. All entries must be made as soon as possible and in any event within 4 hours of the refusal and the record must be made immediately available to police, trading standards or licensing authority staff upon reasonable request. All staff should be trained how to use it and the DPS or his appointed deputy will inspect and sign this at least once a week. The refusals record shall be either electronic or maintained in a bound document and retained for at least 12 months from the date of the last entry.
2. A Challenge 25 policy will be adopted at the premises and all staff will be trained in its operation. Any person who appears to be under the age of 25 will be asked for ID and the sale will be refused if they are unable to provide valid identification. Signage will be prominently displayed within the premises to advertise the fact a Challenge 25 policy is in operation. The premises shall clearly display signs at each

point of sale. At the point of sale, such signs shall be a minimum size of 200mm x 148mm.

3. The only acceptable forms of identification will be a photographic driving licence, passport or a "PASS" approved identification card.
  4. Written training records will be kept for all staff for the duration of their employment and for at least six months after the individual may leave employment. This should include signed and dated forms from employees that state they have received and understood the training.
  5. All staff engaged in the sale or supply of age restricted products on the premises shall have received training in relation to the protection of children from harm (including under-age sales), how to recognise drunkenness and the duty not to serve drunk persons. Refresher training shall be carried out at least every six months. Training records shall be kept on the premises (or otherwise be accessible on the premises) for a minimum of 12 months and made immediately available to police, trading standards or licensing authority staff upon reasonable request.
  6. No sale of alcohol or other age restricted products will be made by any person who has not received training on age restricted products.
  7. The premises shall display prominent signage indicating at any point of sale, at the entrance to the premises and in all areas where alcohol is located that it is an offence: for a person under the age of 18 to buy or attempt to buy alcohol; or buy, or attempt to buy, alcohol for a person under the age of 18.
- 4.3 The current licence conditions can be found on annex 2 of the premises licence at **Appendix 2**
- 4.4 A representative of the licence holder has indicated that they are agreeable to these conditions being added to the licence. A copy of the correspondence is attached as **Appendix 3**
- 4.5 The decision made by the committee will not take effect until the end of the period given for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.
- 4.6 In determining this application for a review of the premises licence, the Sub-Committee should have regard to the Council's Statement of Licensing Policy and to the guidance issued by the Secretary of State under s182 of the Licensing Act 2003.
- 4.7 The Sub-Committee are advised that the hearing is a statutory exercise of power delegated by local residents to consider what the public interest requires. The licensing authority, via the Sub-Committee, has a duty, in accordance with the rule of law, to behave fairly in the decision-making

procedure. Representations from all parties both written and verbal will form part of matters that are to be considered. Findings on issues of fact should be on the balance of probability.

- 4.8 The Sub-Committee are advised that the final decision should be based on the individual merits of the application and findings of fact made at the hearing.
- 4.9 The application must be determined within 5 working days of the conclusion of the hearing, in accordance with paragraph 26 of the Licensing Act 2003 (Hearings) Regulations 2005.

## **5. Consultation (including Overview and Scrutiny, if applicable)**

- 5.1 The application has been consulted on in accordance with the requirements of the Licensing Act 2003, and any responses have been included in this report.

## **6. Impact on corporate policies, priorities, performance and community impact**

- 6.1 Section 17 of the Crime and Disorder Act 1998 places a duty on local authorities to do all that it can to prevent –
- (a) crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local community), and;
  - (b) the misuse of drugs, alcohol and other substances in its areas.

In considering this application in relation to these duties the authority should have due regard to Section 61(1) (b) Local Government (Miscellaneous Provisions) Act 1976, Thurrock Council's guidelines on previous convictions or cautions and any submissions made by the applicant.

## **7. Implications**

### **7.1 Financial**

Implications verified by: **Laura Last**  
**Finance Manager**

There are no direct financial implications arising from this report.

### **7.2 Legal**

Implications verified by: **Godwin Mangse, Interim Principal Lawyer**  
**Housing & Litigation**

Thurrock Council as Licensing Authority under the Licensing Act 2003, the Licencing Act Guidance, the Licencing Act 2003 (Premises licences and club premises certificates) Regulations 2005 and subordinate legislation together with the Councils Guidance, is empowered to determine applications of this

nature. Notice must be given of the Licensing Authority's decision on this matter.

In considering what action the Council should take when reviewing a licence, the Council must have regard for whether the licence holder is promoting the four aims of the Licensing Act 2003 (being: -

1. The prevention of crime and disorder
2. Public Safety
3. The prevention of public nuisance
4. The protection of children from harm

Any decision could be subject to an appeal to a Magistrates Court, which can be instigated by either the applicant or the person who made the representation.

Each application must be considered on its own merits and in accordance with the Licensing Authority's statement of licensing policy.

Conditions attached to licences must be tailored to the individual type, location and characteristics of the premises concerned and be appropriate for the promotion of the licensing objectives in an individual case.

The Accounts and Audit (England) Regulations 2015 section 4 (2) require that:

*"The relevant body shall be responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of internal control which facilitates the effective exercise of that body's functions, and which includes the arrangements for the management of risk."*

### 7.3 Diversity and Equality

Implications verified by: **Rebecca Lee**  
**Team Manager – Community Development and Equalities**

The Licensing Sub-Committee is of a quasi-judicial nature and whilst the Licensing Committee should ensure equality of treatment for all groups in the granting of licences, due regard should be given to its responsibility to promote the licensing objectives and its duties under Section 17 of the Crime and Disorder Act 1998. This includes full consideration of the need to prevent crime and disorder, ensure public safety, the prevention of public nuisance and the protection of children from harm. Where it finds that the need to comply with those duties is reasonably inferred, it must determine the application appropriate.

### 7.4 Other implications (where significant) – i.e., Staff, Health Inequalities, Sustainability, Crime and Order and Looked After Children

The implications of Section 17 Crime and Disorder Act 1998 have been considered at 6.1 above.

**8. Statement of Licensing Policy**

8.1 Section 6 of Thurrock Council's Statement of Licensing Policy relates to the protection of children from harm.

**9. Relevant Section of the Secretary of State's Guidance**

9.1 Section 11 relates to Reviews.

**10. Appendices to the report:**

- Appendix 1 - Copy of application for review and supporting information
- Appendix 2 - Copy of premises licence and location map for Aveley Food and Wine
- Appendix 3 - Copy of correspondence on behalf of licence holder

**Report Author:** Elizabeth Cox  
Licensing Officer