

## DECISION NOTICE

### LICENSING ACT 2003 – TO CONSIDER AN APPLICATION FOR THE GRANT OF A PREMISES LICENCE FOR FLEET ROAD GARAGE, 36 FLEET ROAD, HOLBEACH PE12 8LA

#### PRESENT

<b>Members of the Panel:</b>
Councillor G Scalese Councillor J Tyrrell (Chairman) Councillor A Beal
<b>Officers:</b>
H Lawson (Licensing Officer) H Wright (Assistant Licensing Officer)
<b>In attendance:</b>
Daven Naghen (Maples Solicitors) Legal Advisor to the Panel)) Parathithas Vijayaratnam (Applicant) Duncan Craig (Applicant's Representative) Michael Kheng (Licensing Consultant) Emma Heath(Solicitor for Lincolnshire Police) PC Cummings(Lincolnshire Police) SGT Brigginsshaw(Lincolnshire Police) PC G McConville (Lincolnshire Police)

The Panel considered the application for the grant of a Premises Licence for Fleet Road Garage,36 Fleet Road, Holbeach PE12 8LA.

#### DECISION

The Panel considered the written and verbal evidence presented by all parties, in arriving at this determination.

The Panel took due notice of the Licensing Act 2003, and the Regulations made under it, in particular sections 16 – 18, the guidance issued under Section 182 of the Licensing Act 2003 including paragraphs 1.16, 1.17, 2.1, 8.101, 9.12,9.43, 9.44, 10.10 and 11.24 – 11.28 and South Holland District Council's Statement of Licensing Policy.

There was an unusual background to this matter in that the premises had previously been licensed but there had been a surrender of the licence. The Police had raised concerns regarding illegal workers at the premises in October 2022. The Panel took note that there was now a letter from Immigration Enforcement confirming there to be no action against the premises regarding these workers.

A number of vapes were seized that did not comply with the legislation although the Panel did have regard to the point made by the applicant that there is no licensing

regime in place regarding vapes. It is to be expected that the premises will have learned from this experience and such errors will not be repeated in the future.

The wine that was seized by the Police was being sold over the minimum price value and an invoice had now been supplied that could support the suggestion that this was legitimately purchased from a cash-and-carry. It is of note that if there were to be further problems in the future that the Police or any other responsible authority would be able to bring the premises back for a review. It may be the case that given the history that the premises will be subject to greater scrutiny.

The applicant stated that the Designated Premises Supervisor would be working full time in the premises and that the DPS would be living locally in order to be available at the premises. This new DPS was not involved with the business when the problems occurred.

The decision of the Panel is to grant the licence but with modified conditions having considered that these conditions put forward are far more exacting than the conditions which existed on the previous licence. In addition to the conditions set out on the operating schedule, there is to be a condition that 'no alcohol to be supplied by or stored at the premises shall be purchased from a mobile salesperson offering to sell alcohol which is immediately available and stored in a van'. The background to the need for this condition relates to a previous purchase of vapes from a mobile salesperson.

At the end of the 4<sup>th</sup> condition which deals with training, there is to be added "Training for all staff must be repeated at least once every 12 months and written records retained for a period of no less than 12 months".

At the end of the 6<sup>th</sup> condition dealing with Right to Work checks there shall be added "In any case where an electronic check has not been performed, the reason why the check has not been done electronically is to be documented in writing and this record is to be retained and made available upon request to the authorities for a period of not less than 12 months"

In condition 7, the reference to 122 months is to be amended to 12 months.

## **RIGHT OF APPEAL**

Under Schedule 5 of the Licensing Act 2003 there is a right of appeal to the Magistrates Court. Any appeal must be commenced by notice of appeal given by the Appellant to the Magistrates Court within 21 days beginning with the day on which the Appellant was notified by the Licensing Authority of the decision appealed against. The holder of the licence may appeal against any decision to impose conditions on the licence and the Police may appeal to contend that the licence ought not to have been granted or that the licensing authority ought to have imposed different or additional conditions or to have taken a step mentioned in subsection (4) (b) or (c).

**Signed: Councillor J Tyrrell (Chairman of the Panel)**

26-4-2023