

MINUTES of the meeting of Regulatory Sub Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday 9 May 2008 at 1.00 pm

Present: Councillor Brig P Jones CBE (Chairman)

Councillors: JW Hope MBE and A Seldon

88. ELECTION OF CHAIRMAN

Councillor P Jones CBE was elected as Chairman for the Regulatory Sub-Committee hearing.

89. APOLOGIES FOR ABSENCE

No apologies for absence were received.

90. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the hearing.

91. DECLARATIONS OF INTEREST

There were no declarations of interest made.

92. PREMISES LICENCE REVIEW 'M & G COUNTY WINES, 60 COMMERCIAL ROAD, HEREFORD, HR1 2BP.' (Pages 1 - 2)

The Regulatory Sub-Committee was convened in order to determine an application for a review of a premise licence in accordance with Section 51 of the Licensing Act 2003. The Review had been applied for by the Chief Constable of the West Mercia Constabulary after M & G County Wines failed in two test purchase operations on 16 December 2007 and 1 March 2008.

The Chairman introduced the Members and Officers and asked any interested parties to introduce themselves. He advised them of the hearing procedures and then asked the Licensing Officer to present his report.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, PC Steve Thomas, representing West Mercia Police Authority addressed the sub-committee. He advised them that the test purchase operations had initially been introduced as a Home Office sponsored initiative during the summer of 2007 but due to a high failure rate in Herefordshire the Police Authority and the Trading Standards department had taken the decision to undertake a further series of test purchase operations in December 07, March 08, and more recently in May 08. He confirmed that M & G County Wines had sold alcohol to a 16 year old female in December and a 15 year old female in March 2008 but had refused to sell alcohol in the most recent operation. In order to promote the licensing objectives of the prevention of public nuisance and the protection of children from harm and in accordance with Section 53 C (3)(a) of the Licensing Act 2003, he requested two further conditions be added to the licence:

- That all sales made on the premise are made by a personal licence holder.

- That the use of “Challenge 21” is made a condition of all sales made on the premise.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Thorne, the Principal Trading Standards Officer addressed the sub-committee. He felt that a Challenge 25 policy would be more beneficial as the Challenge 21 policy had already been in place when the test purchase sales were made.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Irving, the Premise Licence Holder, addressed the sub-committee. He advised the sub-committee that both of the staff members who had sold alcohol during the test purchase operations had been dismissed from his employment as a result of their actions. He felt that they had been given sufficient training on the matter and had therefore dismissed them due to gross misconduct. He confirmed that the shop was now being staffed solely by himself and his wife and that they had recently joined the Hereford HAND scheme.

The Sub-Committee retired to make their decision, the Legal Practice Manager and the Democratic Services Officer also retired to assist them with procedural matters.

The Chairman noted that the premise licence holder had taken strong action following the test purchases. He felt that the licence should be amended to include the conditions recommended by the police authority and amended by the trading standards department. He also confirmed that the Sub-Committee felt that the licence should be suspended for 48 hours. He advised the licence holder that this suspension would commence at 00.01 on 1 June 2008 in order to allow an appeal to be lodged in accordance with Section 52 (11) of the Licensing Act 2003.

RESOLVED

That;

- **the premise licence in respect of M & G County Wines, 60 Commercial Road, Hereford, HR1 2BP, be amended as detailed in the attached decision notice.**
- **the premises licence be suspended for a period of 48 hours commencing at 00.01 on 1 June 2008.**

93. PREMISES LICENCE REVIEW 'ASHBY STORES, 38 HIGH STREET, KINGTON, HR5 3BJ.' (Pages 3 - 4)

The Regulatory Sub-Committee was convened in order to determine an application for a review of a premise licence in accordance with Section 51 of the Licensing Act 2003. The Review had been applied for by the Chief Constable of the West Mercia Constabulary after Nisa Kington, formally known as Ashby Stores, failed in two test purchase operations on 28 December 2007 and 1 March 2008.

The Chairman introduced the Members and Officers and asked any interested parties to introduce themselves. He advised them of the hearing procedures and then asked the Licensing Officer to present his report.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, PC Steve Thomas, representing West Mercia Police Authority addressed the sub-committee. He advised them that the test purchase operations had initially been introduced as a Home Office sponsored initiative but due to a high failure rate in Herefordshire the Police Authority and the Trading Standards department had taken the decision to undertake a further series of test purchase operations in December 07, March 08, and more recently

in May 08. He confirmed that Nisa had sold alcohol to a 16 year old male in December and a 15 year old female in March 2008 but had refused to sell alcohol in the most recent operation. In order to promote the licensing objectives of the prevention of public nuisance and the protection of children from harm and in accordance with Section 53 C (3)(a) of the Licensing Act 2003, he requested three further conditions be added to the licence:

- That the use of “challenge 21” is made a condition of all sales made on the premise.
- That that the premise employs proven training method for all staff, in age restricted sales, and that written records of the training are kept and made available for inspection by the Licensing Authority and Police.
- That the premise has till prompts for all age restricted items to ensure staff enforce the “challenge 21” rule and requested identification when necessary.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Tim Thorne, the Principal Trading Standards Officer addressed the sub-committee. He felt that a challenge 25 policy would be more beneficial than the challenge 21 policy that had already been in place when the test purchase sales were made. He noted that the premise licence holder had voluntarily introduced a Challenge 25 policy. He advised members of the 10 conditions he had detailed in their background papers and asked them to consider the following three conditions in order to promote the licensing objective of protecting children from harm.

- Ensure a personal licence holder is on the premises at all times.
- Adopt a NO ID NO SALE policy.
- Adopt a Challenge 21 policy. Asking anyone who looks under 21 to provide suitable ID to prove that they are over 18 before you serve them.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Andrew Gold, the Premise Licence Holder’s legal advisor addressed the sub-committee. He referred to a folder of information submitted to the Licensing Department on Wednesday 7 May 2008 containing the following information:

- Refusals log 11.02.07 – 30.03.08
- Staff memo in wage packets 08.07.04 to 02.04.08
- Staff declaration. Showing understood information 05.2005 to 03.2008 and undated
- Job application form – blank
- Notices
- First seller’s offer of employment 25.05.07
- First seller’s job application form. Signed and undated
- Reminder to staff – Underage sales. Undated (after 28.12.07)
- Second seller’s offer of employment 01.02.08
- Second seller’s job application form. Signed and undated
- Torbay trading standards’ notes on underage sales and tests
- Job offer letter. Warning of underage sales – blank
- Staff badges (Underage sales)
- Notices In Supermarket
- Letter to all staff re. underage sales – 13.03.08
- Training records for all staff since offences
- Training records for supervisors since offences

The Licence Holder’s Legal Advisor then presented his case to the Sub-Committee. He advised that Mr Ashby Senior was the current DPS on the site however this would soon be changed to Mr Ashby Junior as both himself and his wife had recently undertaken the

personal licence holder's course and were awaiting their certificates. He advised Members of the circumstances that had resulted in the two test purchases and confirmed that the following action had been taken in order to ensure that the situation didn't arise again:

- Memo's were sent to all staff regarding the 2 incidents
- A Challenge 25 policy was now in place
- Till prompts were in place
- The store had adopted the Torbay Trading Standards' Training Plan
- The offer of employment information had been updated with Challenge 25 information
- Staff all now wear Challenge 25 badges
- Store signage had been updated

In summing up he confirmed that he was happy to agree to the conditions recommended by the Police Authority but had reservations regarding the condition recommended by the Principal Trading Standards Officer relating to the requirement for a personal licence holder to be on the premises at all times.

The Sub-Committee retired to make their decision, the Legal Practice Manager and the Democratic Services Officer also retired to assist them with procedural matters.

The Sub-Committee took the view that the licence should be amended to include all of the conditions recommended by the police authority and one which was recommended by the trading standards department. He also confirmed that the Sub-Committee felt that the licence should be suspended for a period of 7 days. He advised the licence holder that this suspension would commence on 1 June 2008 in order to allow an appeal to be lodged in accordance with Section 52 (11) of the Licensing Act 2003.

RESOLVED

That;

- **the premise licence in respect of Nisa Supermarket (formally known as Ashby Stores), 38 High Street, Kington, HR5 3BJ, be amended as detailed in the attached decision notice.**
- **the premises licence be suspended for a period of 7 days commencing at 00.01 on 1 June 2008.**

94. PREMISES LICENCE REVIEW 'LOCAL, 28 HIGH STREET, LEOMINSTER, HR6 8LZ.' (Pages 5 - 6)

The Regulatory Sub-Committee was convened in order to determine an application for a review of a premise licence in accordance with Section 51 of the Licensing Act 2003. The Review had been applied for by the Chief Constable of the West Mercia Constabulary after Local Leominster failed in two test purchase operations on 28 December 2007 and 1 March 2008.

The Chairman introduced the Members and Officers and asked any interested parties to introduce themselves. He advised them of the hearing procedures and then asked the Licensing Officer to present his report.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, PC Steve Thomas, representing West Mercia Police Authority addressed the sub-committee. He advised them that the test purchase operations had initially been introduced as a Home

Office sponsored initiative but due to a high failure rate in Herefordshire the Police Authority and the Trading Standards department had taken the decision to undertake a further series of test purchase operations in December 07, March 08, and more recently in May 08. He confirmed that Local had sold alcohol to a 15 year old female in December and a 15 year old female in March 2008 but had refused to sell alcohol in the most recent operation. He confirmed that on both occasions the Designated Premises Supervisor had not been in the store. In order to promote the licensing objectives of the prevention of public nuisance and the protection of children from harm and in accordance with Section 53 C (3)(a) of the Licensing Act 2003, he requested four further conditions be added to the licence:

- The removal of the current DPS.
- That the use of "challenge 21" is made a condition of all sales made on the premise.
- The premises join the Leominster HAND scheme, including the provision of a pub watch radio in the store.
- The provision of CCTV which meets the requirements and expectations of the Licensing Authority and Police.

He also requested that the premise licence holder undertake the following actions:

- Review the store layout with a view to preventing or reducing incidents of theft.
- Endeavour to ensure that there are two members of staff on duty between 1800 and 2200 on Friday and Saturday evenings.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Tim Thorne, the Principal Trading Standards Officer addressed the sub-committee. He felt that a challenge 25 policy would be more beneficial than the challenge 21 policy that had already been in place when the test purchase sales were made. He advised members of the 10 conditions he had detailed in their background papers and asked them to consider imposing all of the conditions in order to promote the licensing objective of protecting children from harm.

- Ensure a personal licence holder is on the premises at all times.
- Ensure comprehensive training is given to staff. This training should be recorded and refreshed at least once every 6 months.
- Ensure staff are trained on how to spot underage purchasers and to handle refusals safely.
- Adopt a NO ID NO SALE policy.
- Adopt a Challenge 21 policy. Asking anyone who looks under 21 to provide suitable ID to prove that they are over 18 before you serve them.
- Only accept the following forms of ID: Valid British Passport; Photo Driving Licence; and proof of age cards carrying the PASS hologram.
- Use a refusals log; monitor it's usage to ensure all staff are being vigilant.
- Display posters and notices, at entrance and points of sale, advising customers of the age restrictions and that they will be asked for ID if they look under 21.
- Have a CCTV system installed. Tapes/recordings must be kept for 4 weeks minimum. These tapes/recordings should be kept for any agency that requires them.
- Dependant on the type of till in use at the premise, install a Till Prompt system.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mrs Sue Dixon, representing the Premise Licence Holder, addressed the sub-committee. She advised the Sub-Committee that the Thresher's group operated 1700 branches nationwide. She accepted that there had been mistakes made at their Leominster store due to issues with the DPS which would be resolved through the introduction of a new DPS to the store.

She was pleased to report that a number of the measures suggested by the police and the trading standards officer had been implemented including: the introduction of a digital CCTV system; membership of the HANDS scheme; the introduction of a 'Challenge 25' policy; and a review of the store layout.

The Sub-Committee retired to make their decision, the Legal Practice Manager and the Democratic Services Officer also retired to assist them with procedural matters.

The Sub-Committee took the view that the licence should be amended as detailed in the attached decision notice. They also felt that the licence should be suspended for a period of 7 days. The Chairman advised the licence holder that this suspension would commence on 1 June 2008 in order to allow an appeal to be lodged in accordance with Section 52 (11) of the Licensing Act 2003.

RESOLVED

That;

- **the premise licence in respect of Local, 28 High Street, Leominster, HR6 8LZ, be amended as detailed in the attached decision notice.**
- **the premises licence be suspended for a period of 7 days commencing at 00.01 on 1 June 2008.**

95. PREMISES LICENCE REVIEW 'SPAR, 3/5 BARGATES, LEOMINSTER, HR6 8EX.' (Pages 7 - 8)

The Regulatory Sub-Committee was convened in order to determine an application for a review of a premise licence in accordance with Section 51 of the Licensing Act 2003. The Review had been applied for by the Chief Constable of the West Mercia Constabulary after Spar failed in two test purchase operations on 28 December 2007 and 1 March 2008.

The Chairman introduced the Members and Officers and asked any interested parties to introduce themselves. He advised them of the hearing procedures and then asked the Licensing Officer to present his report.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, PC Steve Thomas, representing West Mercia Police Authority addressed the sub-committee. He advised them that the test purchase operations had initially been introduced as a Home Office sponsored initiative but due to a high failure rate in Herefordshire the Police Authority and the Trading Standards department had taken the decision to undertake a further series of test purchase operations in December 07, March 08, and more recently in May 08. He confirmed that Spar had sold alcohol to a 16 year old female in December and a 15 year old female in March 2008 but had refused to sell alcohol in the most recent operation. In order to promote the licensing objectives of the prevention of public nuisance and the protection of children from harm and in accordance with Section 53 C (3)(a) of the Licensing Act 2003, he requested that two further conditions be added to the licence:

- That the use of "challenge 21" is made a condition of all sales made on the premise.
- That the premise employs proven training methods for all staff, in age restricted sales, and that written records of the training are kept and made available for inspection by the Licensing Authority and Police.

PC Thomas advised members that Spar were already members of the Leominster HAND scheme as well as being members of the Leominster Retail Radio scheme. He added that the management and staff of the store had been extremely helpful and cooperative.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Tim Thorne, the Principal Trading Standards Officer addressed the sub-committee. He felt that a challenge 25 policy would be more beneficial than the challenge 21 policy that had already been in place when the test purchase sales were made. He advised members of the 10 conditions he had detailed in their background papers and asked them to consider imposing all of the conditions in order to promote the licensing objective of protecting children from harm.

- Ensure a personal licence holder is on the premises at all times.
- Ensure comprehensive training is given to staff. This training should be recorded and refreshed at least once every 6 months.
- Ensure staff are trained on how to spot underage purchasers and to handle refusals safely.
- Adopt a NO ID NO SALE policy.
- Adopt a Challenge 21 policy. Asking anyone who looks under 21 to provide suitable ID to prove that they are over 18 before you serve them.
- Only accept the following forms of ID: Valid British Passport; Photo Driving Licence; and proof of age cards carrying the PASS hologram.
- Use a refusals log; monitor its usage to ensure all staff are being vigilant.
- Display posters and notices, at entrance and points of sale, advising customers of the age restrictions and that they will be asked for ID if they look under 21.
- Have a CCTV system installed. Tapes/recordings must be kept for 4 weeks minimum. These tapes/recordings should be kept for any agency that requires them.
- Dependant on the type of till in use at the premise, install a Till Prompt system.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Adrian Roberts, representing the Premise Licence Holder, addressed the sub-committee. He said that Tates were responsible for 200 convenience stores nationwide and took their responsibility seriously. He advised members of the induction and training plan provided for staff in respect of age restricted sales and produced supporting documentation. He felt that it would be impractical to require a licence holder to be on the premise at all times due to the long store opening times. In response to a question, Mr Roberts advised the sub-committee that disciplinary action had been taken in respect of the two staff members responsible for the underage sales. He also advised that as a result of the test purchase operation the company had revised their internal test purchase procedure.

The Sub-Committee retired to make their decision, the Legal Practice Manager and the Democratic Services Officer also retired to assist them with procedural matters.

The Sub-Committee took the view that the licence should be amended as detailed in the attached decision notice. They also felt that the licence should be suspended for a period of 24 hours. The Chairman advised the licence holder that this suspension would commence on 1 June 2008 in order to allow an appeal to be lodged in accordance with Section 52 (11) of the Licensing Act 2003.

RESOLVED

That;

- **the premise licence in respect of Spar, 3/5 Bargates, Leominster, HR6 8EX, be amended as detailed in the attached decision notice.**
- **the premises licence be suspended for a period of 24 hours commencing at 00.01 on 1 June 2008.**

96. PREMISES LICENCE REVIEW 'BROMYARD KEBAB & BURGER SHOP, 3 CRUXWELL STREET, BROMYARD, HR7 4EB.' (Pages 9 - 10)

The Regulatory Sub-Committee was convened in order to determine an application for a review of a premise licence in accordance with Section 51 of the Licensing Act 2003. The Review had been applied for by the Chief Constable of the West Mercia Constabulary after an incident at Bromyard Kebab & Burger Shop.

The Chairman introduced the Members and Officers and asked any interested parties to introduce themselves. He advised them of the hearing procedures and then asked the Licensing Officer to present his report.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, PC Steve Thomas, representing West Mercia Police Authority addressed the sub-committee.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Tim Thorne, the Principal Trading Standards Officer addressed the sub-committee.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Graham representing Mr Sorguica, the Premise Licence Holder, addressed the sub-committee.

The Sub-Committee retired to make their decision, the Legal Practice Manager and the Democratic Services Officer also retired to assist them with procedural matters.

The Sub-Committee took the view that the licence should be amended as detailed in the attached decision notice.

RESOLVED

That;

- **the premise licence in respect of Bromyard Kebab & Burger Shop be amended as detailed in the attached decision notice.**

97. APPLICATION FOR A PREMISES LICENCE 'THE BIG CHILL, EASTNOR CASTLE DEER PARK, EASTNOR, LEDBURY, HR8 1RD.'

The Licensing Officer requested that the determination of the application be deferred pending further information.

RESOLVED

That the determination of the application be deferred