

MINUTES of the meeting of Regulatory Sub Committee held at Meeting Room 22a, Brockington, 35 Hafod Road, Hereford on Thursday, 22 January 2009 at 2.00 p.m.

Present: Councillor JW Hope MBE (Chairman)

Councillors: CM Bartrum and A Seldon

46. ELECTION OF CHAIRMAN

Councillor JW Hope MBE was elected as Chairman for the Regulatory Sub-Committee hearing.

47. APOLOGIES FOR ABSENCE

No apologies for absence were received.

48. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the hearing.

49. DECLARATIONS OF INTEREST

There were no declarations of interest made.

50. APPLICATION FOR A REVIEW OF PREMISES LICENCE 'BARGAIN BOOZE PLUS, PUTSON POST OFFICE, HOLME LACY ROAD, HEREFORD, HR2 6BZ.'
(Pages 1 - 2)

The Regulatory Sub-Committee was convened in order to determine an application for a review of a premises 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 Bargain Booze Plus had failed in two test purchase operations in a 3 month period at the end of 2008. The sales were made on 12 August 2008 and 6 October 2008. The Sub-Committee were also notified of an additional sale made to a 16 year old female on 15 December 2008, after the review had been applied for.

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 throughout the end of 2007 and 2008. He confirmed that Bargain Booze Plus had sold alcohol to a 16 year old female in August 2005, a 16 year old female in August 2008, and a 16 year old female in October 2008. He added that an additional sale had taken place in the store on 15 December 2008 when a 16 year old female was sold alcohol. 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 initially 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 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.

Following the sale on 15 December 2008 PC Thomas submitted an additional representation requesting a further condition to be added to the licence:

- That a personal licence holder is on the premises at all times that it is authorized for the sale of alcohol.

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 drew members attention to his representation contained within the background papers which listed a number of conditions that he felt that the sub-committee may wish to attach to the licence. He advised the sub-committee that Bargain Booze Plus was the only premises in Herefordshire to fail 3 test purchases in a 4 month period. In response to a question from Councillor A Seldon, the Principal Trading Standards Officer presented photographs of two of the females used in the test purchase operations. The premises licence holder was also given the opportunity to view the photographs which had been taken immediately before the purchases were made.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Hudson, the premise licence holder addressed the sub-committee. He advised the sub-committee that the two staff members who had made the first two sales were no longer employees of Bargain Booze Plus. He felt that the store did not have a problem with under age sales and advised Members that all staff received training prior to being permitted to sell alcohol. Mr Hudson advised the Sub-Committee that he employed 5 personal licence holders who worked at either the Yazor Road or the Holme Lacy Road stores and that they used a number of techniques to combat underage selling including a sales log and a fingerprint scanner.

Members discussed the fingerprint scanning technology used by the store and felt that it could only be an effective system if the correct identification was produced at the initial stage. If a fake identification was used the purchaser would never be checked again as the system would show them to be over the age of 18.

PC Steve Thomas advised the Sub-Committee of a number of issues regarding fake identification in Hereford. He stated that realistic identification could be obtained via the internet at a small cost. The Licensing Officer produced two such identifications for the sub-committee to examine.

The Principal Trading Standards Officer noted the reasons given by Mr Hudson regarding the 3 sales made by members of his staff but sought clarification regarding the circumstances that led him to make a sale to a 16 year old female in his Yazor Road store. Mr Hudson felt that he had made a mistake and advised the Sub-Committee that it was the first time he had personally been caught making an underage sale in 30 years.

The Licensing Officer advised Mr Hudson that due to the introduction of the Policing and Crime Bill it would soon be a criminal offence to sell alcohol to children on two occasions.

At 14:30 the Sub-Committee retired to make their decision, the Council's Legal Advisor and the Democratic Services Officer also retired to assist them with procedural matters.

The meeting was re-convened at 14:53 and the Council's Legal Advisor read out the following statement:

The Sub-Committee having considered the evidence before it today has come to the following decisions:-

1. *It agrees that the premises licence conditions should be modified to include the following conditions:*
 - a. *That the use of 'Challenge 25' is made a condition of all sales made on the premises.*
 - b. *That the premises employs proven training methods in age restricted sales for all staff and that written records of the training are kept and made available for inspection by the Licensing Authority and Police.*
 - c. *That a personal licence holder is on the premises at all times that it is authorized for the sale of alcohol.*
2. *In addition, the Sub-Committee considers that it must view the three admitted breaches in 2008 to be all of serious weight. It therefore has decided that a period of suspension of the premises licence must take place to allow proper time for staff training and for the results of this training to be reviewed by a responsible body (ie: Police, Trading Standards, or the Licensing Authority). In the circumstances the Sub-Committee have decided that a suspension period of 21 days is reasonable subject to any appeal that the premises licence holder may choose to make.*
3. *If no appeal is lodged, the suspension shall commence on 20 February 2009 at 23:59 hours.*

RESOLVED

That;

- i) **the premise licence in respect of Bargain Booze Plus, Putson Post Office, Holme Lacy Road, Hereford, HR2 6BZ, be amended as detailed in the attached decision notice.**
- ii) **the premises licence be suspended for a period of 21 days commencing 23:59 on 20 February 2009.**

The meeting ended at 2.57 p.m.

CHAIRMAN



HEREFORDSHIRE COUNCIL

**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)**

PREMISES	Bargain Booze Plus
LICENCE HOLDER	Mr Alan Hudson
APPLICANT'S NAME	Chief Constable Paul West
APPLICATION TYPE	Review of Premises Licence
PANEL MEMBERS	Councillor JW Hope MBE (Chairman) Councillor A Seldon Councillor CM Bartrum
DATE OF MEETING	22 January 2009

Members of the Licensing Panel of the Council's Regulatory Committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision, the Members heard from PC Thomas, representing West Mercia Constabulary, and Mr Thorne, the Principal Trading Standards Officer, together with Mr Hudson, the premises licence holder.

Having carefully considered those matters put before them, the Members of the Committee considered that in order to promote the Licensing Objectives that the application should be, and was determined as follows:-

That the Licence be suspended in respect of all licensable activity for a period of 21 days commencing 20 February 2009*.

That the following additional conditions be imposed forthwith* upon the licence:-

- That the use of 'Challenge 25' is made a condition of all sales made on the premises.
- That the premises 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.
- That a personal licence holder is on the premises at all times that it is authorised for the sale of alcohol.

** Subject to Section 52(11) which states that a determination under this section does not have effect:*

- (a) until the end of the period given for appealing against the decision, or
(b) if the decision is appealed against, until the appeal is disposed of.*

HEREFORDSHIRE COUNCIL

**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)**

REASONS

In reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 and the Council's Licensing Policy, the Guidance issued pursuant to Section 182 of the Act, together with the matters raised both orally and in the documents presented to the meeting. The Committee were cognisant of the fact that the Licence amounted to 'property' within the meaning of Article 1 to the First Protocol of the European Convention on Human Rights and considered that their decision was proportionate, having regard to all the matters put before them. The Members made their decision in order to promote the four licensing objectives, namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.