

# A G E N D A

## Regulatory Sub Committee

Date: **Thursday, 22nd January, 2009**

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Time: **2.00 p.m.**

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Place: **Meeting Room 22a, Brockington, 35  
Hafod Road, Hereford**

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Notes: Please note the **time, date** and **venue** of the meeting.

*For any further information please contact:*

*Ricky Clarke, Democratic Services Officer, Tel:  
01432 261885 Fax: 01432 260286*

**E-mail: [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk)**

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**Herefordshire Council**



# AGENDA

## for the Meeting of the Regulatory Sub Committee

To: Councillors CM Bartrum, JW Hope MBE and A Seldon

Pages

**1. ELECTION OF CHAIRMAN**

To elect a Chairman for the hearing.

**2. APOLOGIES FOR ABSENCE**

To receive apologies for absence.

**3. NAMED SUBSTITUTES (IF ANY)**

To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.

**4. DECLARATIONS OF INTEREST**

To receive any declarations of interest by Members in respect of items on the Agenda.

**GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS**

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is and leave the meeting room.

**5. APPLICATION FOR A REVIEW OF PREMISES LICENCE 'BARGAIN BOOZE PLUS, PUTSON POST OFFICE, HOLME LACY ROAD, HEREFORD, HR2 6BZ.'**

1 - 24

To consider an application for a review of the premises licence for Bargain Booze Plus, Putson Post Office, Holme Lacy Road, Hereford, HR2 6BZ.



# **The Public's Rights to Information and Attendance at Meetings**

## **YOU HAVE A RIGHT TO: -**

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

## **Please Note:**

Agenda and individual reports can be made available in large print. Please contact the officer named on the front cover of this agenda **in advance** of the meeting who will be pleased to deal with your request.

The meeting venue is accessible for visitors in wheelchairs.

A public telephone is available in the reception area.

## **Public Transport Links**

- Public transport access can be gained to Brockington via the service runs approximately every half hour from the 'Hopper' bus station at the Tesco store in Bewell Street (next to the roundabout junction of Blueschool Street / Victoria Street / Edgar Street).
- The nearest bus stop to Brockington is located in Old Eign Hill near to its junction with Hafod Road. The return journey can be made from the same bus stop.

If you have any questions about this agenda, how the Council works or would like more information or wish to exercise your rights to access the information described above, you may do so either by telephoning the officer named on the front cover of this agenda or by visiting in person during office hours (8.45 a.m. - 5.00 p.m. Monday - Thursday and 8.45 a.m. - 4.45 p.m. Friday) at the Council Offices, Brockington, 35 Hafod Road, Hereford.

## **COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

### **FIRE AND EMERGENCY EVACUATION PROCEDURE**

In the event of a fire or emergency the alarm bell will ring continuously.

You should vacate the building in an orderly manner through the nearest available fire exit.

You should then proceed to Assembly Point J which is located at the southern entrance to the car park. A check will be undertaken to ensure that those recorded as present have vacated the building following which further instructions will be given.

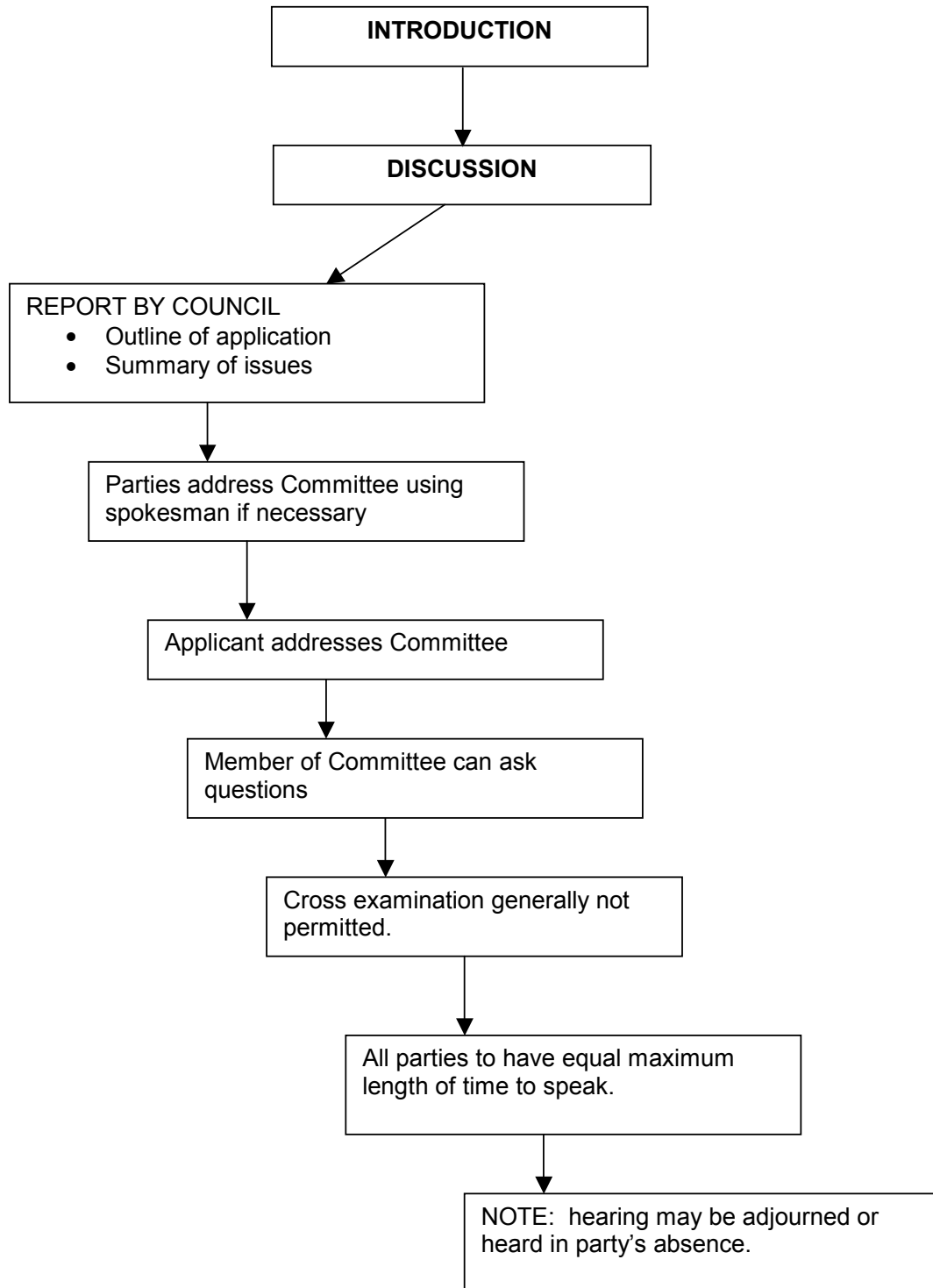
Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.





## LICENCING HEARING FLOW CHART





**APPLICATION FOR REVIEW OF A PREMISES LICENCE ISSUED UNDER THE LICENSING ACT 2003 IN RESPECT OF 'BARGAIN BOOZE PLUS, PUTSON POST OFFICE, HOLME LACY ROAD, HEREFORD, HR2 6BZ.**

**Report By: Head Of Environmental Health And Trading Standards**

**Wards Affected:**

Hereford

**1. Purpose**

To consider an application for a review of a premises licence in respect of Bargain Booze Plus, Putson Post Office, Holme Lacy Road, Hereford, HR2 6BZ.

**2. Background Information**

Applicant	<b>Paul West – Chief Constable of the West Mercia Constabulary, c/o Police Station, Bath Street, Hereford.</b>	
Premises Licence Holder	<b>Mr Alan Hudson, Bargain Booze Plus, Putson Post Office, Holme Lacy Road, Hereford HR2 6BZ</b>	
Solicitor	<b>N/K</b>	
Type of application: <b>Review</b>	Date received: <b>25/11/08</b>	28 Days consultation <b>23/12/08</b>

A notice advertising the review was placed on the premises prior to the start of the statutory consultation period and also displayed in the public area of the Licensing Authority (Bath Street Council Offices).

**3. Current Licence**

The current licence allows: -  
Sale by Retail of Alcohol

- On weekdays, other than Christmas Day, 8 am to 11 pm
- On Sundays, other than Christmas Day, 8 am to 10.30 pm
- On Christmas Day, 12 noon to 3 pm and 7 pm to 10.30 pm
- On Good Fridays, 8 am to 10.30 pm

There are no Non-Standard Timings.

**4. Summary of Application**

The application for review relates to the following licensing objectives: -

- Prevention of public nuisance
- Protection of children from harm

**5. The grounds for the review are: -**

The premises has been the subject of eight separate test purchase operations since the start of the Licensing Act in November 2005. Three under age sales have occurred in a 4 month period.

6. **The information provided to support this application is: -**

On the 24 August 2005 Herefordshire Council's trading standards department carried out a test purchase operation at the premise. A 16 year old was served alcohol without being challenged concerning her age.

On 12 August 2008 Herefordshire Council's trading standards department carried out a test purchase operation at the premise. A 16 year old buyer was served alcohol without being challenged concerning her age.

On 6 October 2008, Herefordshire Council's trading standards department carried out a test purchase operation at the premise. A 16 year old was served alcohol without being challenged concerning her age. The person who made the sale was issued with a fixed penalty notice.

A further sale took place on the 15 December 2008 when alcohol was sold to a 16 year old female volunteer.

7. **Summary of Representations**

Copies of the representations and suggested conditions can be found within the background papers.

**West Mercia Police**

West Mercia Police have provided additional evidence in support of their application.

**Trading Standards**

Trading Standards, who have a responsibility for the protection of children from harm, have made a representation in support of the application and have suggested to the Committee a number of conditions which may be suitably applied to the premises licence.

The Trading Standards representative would like the committee to have the following additional information:-

The premise licence holder (Mr Alan Hudson) is also the licence holder at another premises known as Bargain Booze at 3 Yazor Road, Hereford, HR4 0LZ, and at this site on 1 March 2008 Mr Alan Hudson himself sold alcohol to our 16 year old volunteer. The Yazor Road site also sold to an under age volunteer on 7 September 2006. Alan Hudson has been the DPS at the Yazor Road premises since 16/11/07. He was also the DPS at Bargain Booze Plus, Holme Lacy Road from November 2005 to 26/11/07 when it changed to Louise Barsacq.

**Environmental Health, Fire Authority and Interested Parties.**

No representations have been received from these.

8. **Committee's Responsibility**

The committee is responsible for promoting the four licensing objectives.

In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- The steps that are necessary to promote the licensing objectives,
- The representations (including supporting information) presented by all parties,
- The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 and
- The Herefordshire Council Licensing Policy.

9. **Options: -**

- Take no action
- Take any of the following steps: -
  - (a) to modify the conditions of the licence;
  - (b) to exclude a licensable activity from the scope of the licence;
  - (c) to remove the designated premises supervisor;
  - (d) to suspend the licence for a period not exceeding three months;
  - (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

Where the authority takes a step mentioned in subsection (a) or (b), it may provide that the modification or exclusion is to have effect for only such a period as it may specify (not exceeding three months).

10. **Background Papers**

- a. Police and representation
- b. Trading Standards representation
- c. Application form from Police
- d. Location plan

**Background papers are available for inspection in Meeting Room 22a, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.**

**NOTES****RELEVANT, VEXATIOUS AND FRIVOLOUS REPRESENTATIONS**

9.8. A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessman which argued that his business would be commercially damaged by a new licensed premises would not be relevant. On the other hand, a representation that nuisance caused by the new premises would deter customers from entering the local area and the steps proposed by the applicant to control that nuisance were inadequate would be relevant. There is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations, and in fact this would not be possible for new premises. Further information for interested parties about the process for making representations is available in “Guidance for interested parties: Making representations” which can be found on the DCMS website.

9.9 The “cumulative impact” on the licensing objectives of a concentration of multiple licensed premises may also give rise to a relevant representation when an application for the grant or variation of a premises licence is being considered, but not in relation to an application for review which must relate to an individual premises.

9.10 It is for the licensing authority to determine whether any representation by an interested party is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness. An interested party who is aggrieved by a rejection of their representations on these grounds may challenge the authority’s decision by way of judicial review.

9.11. Licensing authorities should not take decisions on whether representations are relevant on the basis of any political judgment. This may be difficult for ward councilors receiving complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the subcommittee before any decision is taken that necessitates a hearing. Any ward councilor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.

9.12 The Secretary of State recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it. If it then emerged, for example, that the representation should not be supported, the licensing authority could decide not to take any action in respect of the application.

**REVIEWS**

11.7 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.

11.22 A number of reviews may arise in connection with crime that is not directly connected with licensable activities

Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all.

Where a review follows a conviction, it would also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.

11.25 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

Section 52

(11) 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.

### **Licensing Authorities power to exercise substantive discretionary powers.**

#### **The British Beer and Pub Association (2) The Association of Licensed Multiple Retailers (3) The British Institute of Inn keeping V Canterbury City Council.**

Contesting the validity of the Licensing policy that asks for certain requirements before the application has been submitted. In the summing up the Judge states; The scheme of the legislation is to leave it to applicants to determine what to include in their applications, subject to the requirements of Section 17 and the Regulations as to the prescribed form and the inclusion of a statement of specified matters in the operating schedule. An applicant who makes the right judgement, so that the application gives rise to no relevant representations, is entitled to the grant of a licence without the imposition of conditions. The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision – making function under section 18 (3) is engaged.





Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Paul West Chief Constable West Mercia Constabulary.....

*(Insert name of applicant)*

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description BARGAIN BOOZE PLUS PUTSON POST OFFICE 44 HOLME LACY ROAD	
Post town HEREFORD	Post code (if known) HR2 6BZ

Name of premises licence holder or club holding club premises certificate (if known) Alan HUDSON Bargain Booze Plus Putson Post Office 44 Holme Lacy Road HEREFORD HR2 6BZ
--

Number of premises licence or club premises certificate (if known) PR00167
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Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises

- d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

Please tick

Mr

Mrs

Miss

Ms

Other title  
(for example, Rev)

Surname

First names

Please tick yes

I am 18 years old or over

Current postal  
address if  
different from  
premises  
address

Post town

Post Code

Daytime contact telephone number

E-mail address  
(optional)

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Telephone number (if any)

E-mail address (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address  
Stephen Gomer THOMAS Police Constable 697, on behalf of the Chief Constable of  
the West Mercia Constabulary  
Hereford Police Station  
Bath Street  
HEREFORD  
HR1 2HT

Telephone number (if any)  
01432 364552

E-mail address (optional)  
stephen.thomas@westmercia.pnn.police.uk

**This application to review relates to the following licensing objective(s)**  
Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

**Please state the ground(s) for review (please read guidance note 1)**  
The premise has been the subject of a number of test purchase operations and has  
sold on two occasions within 3 months of each other

**Please provide as much information as possible to support the application**  
(please read guidance note 2)

On the 12<sup>th</sup> August 2008, Herefordshire Council trading standards department, and the West Mercia Constabulary carried out a test purchase operation at the premise.

A 16 year old female was served alcohol with out being challenged concerning her age.

The person who made the sale was issued with a fixed penalty notice.

On the 6<sup>th</sup> October 2008 Herefordshire Council trading standards department , and the West Mercia Constabulary carried out a test purchase operation at the premise

A 16 year old female was served alcohol with out being challenged concerning her age

The person who made the sale was issued with a fixed penalty notice

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day

Month

Year

If you have made representations before relating to this premises please state what they were and when you made them

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature *S. J. Thomas PC 697*

Date *25/11/08*

Capacity *Licensing officer*

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Licensing Department  
Hereford Police Station  
Bath Street  
HEREFORD  
HR1 2HT  
Direct Dial 01432 364552 Fax:



**WEST MERCIA**  
**CONSTABULARY**  
TOGETHER - WORKING FOR SAFETY AND JUSTICE

25<sup>th</sup> November 2008.

Your Ref:

Herefordshire Council Licensing Section  
The County Offices  
PO Box 233  
Bath Street  
HEREFORD  
HR1 2ZF

EH & TS / LICENSING SECTION  
**RECEIVED**  
28 NOV 2008  
TO:

Dear Sir / Madam

REF: BARGAIN BOOZE PLUS , HOLME LACY ROAD HEREFORD.  
APPLICATION TO REVIEW PREMISE LICENCE  
LICENSING ACT 2003

On behalf of the Chief Constable of the West Mercia Constabulary, I have made an application to review the Premise Licence for, Bargain Booze Plus, Holme Lacy Road, Hereford.

The application is made in accordance with section 51 of the Licensing Act 2003, and for the purpose of section 52 (7) the relevant representations concern the promotion of the licensing objectives of "the protection of children from harm " and "the prevention of crime and disorder "

The premise is licensed for the sale by retail of alcohol.

The West Mercia Constabulary and Herefordshire Council Trading Standards Department have taken part in regular test purchase operations.

These operations involved the use of 15 or 16 year olds, visiting licensed premises and attempting to purchase alcohol, in accordance with section 149 (2) of the Licensing Act 2003.

In the spring of 2007 The West Mercia Constabulary, and Herefordshire Council Trading Standards Department, took part in the, Home Office Police Standards Unit, test purchase operation.

The premise to be tested were selected on an intelligence led basis and had been either the subject of previous sales or complaints.

These operations took place between the 4<sup>th</sup> May and 15<sup>th</sup> July 2007, and in Herefordshire involved visits and tests at 20 premises in the county, with each premise being "tested "at least 3 times.

- On a national basis 1.064 of the 2.683 premises tested made sales.
- Of the 9000 separate "tests" 14.7% made sales.

In Herefordshire

- Out of the 20 premises visited, 12 made one sale or more, over 50%
- Out of 77 separate tests, 17 sales were made which is 22%.

This premise was not the subject of any of tests during this operation,

In view of the high failure rate, further operations were planned, with a larger number of premises being tested.

In December 2007, The West Mercia Constabulary and Herefordshire Council Trading Standards Department carried out a further test purchase operation in the county.

During this operation 48 separate premise were made the subject of a single "test"

- Out of the 48 premises "tested " 12 sold which is 25%
- This premise was the subject of a test purchase operation on the 15<sup>th</sup> December 2007, and no sale was made

In the spring of 2008, the West Mercia Constabulary and Herefordshire Council Trading Standards Department carried out a further test purchase operation in the county that involved revisiting all 12 premises that made sales in December 2007.

- Out of the 12 re-visited, 4 made sales which is 33%

Because of the same high failure rate, during the summer of 2008, the West Mercia Constabulary and Herefordshire Council Trading Standards department carried out further test purchase operations in the county.

During this operation 55 separate premises were made the subject of a single "test"

Out of the 55 premises "tested" 19 sold which is 29%

- This premise was the subject of a test purchase operation on the 12<sup>th</sup> August 2008, and a sale was made to a 16 year old female.



In the Autumn of 2008, the West Mercia Constabulary and Herefordshire Council Trading Standards Department carried out a further test purchase operation in the county that involved revisiting all 19 premises that made sales in August 2008.

- This premise was the subject of a test purchase operation on the 6<sup>th</sup> October 2008, and a sale was made to a 16 year old female.

In March 2008 the government issued an evaluation of the impact of the Licensing Act 2003

This review produced 3 "Immediate Actions" one of which was, to change the offence of "persistently selling alcohol to a person under the age of 18 from three strikes to two strikes in 3 months."

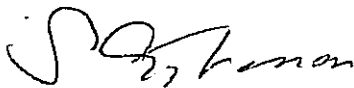
In accordance with section 53 C (3) (A) the West Mercia Constabulary would seek the licensing authority to modify the conditions on the licence by the addition of the following.

- That the use of "challenge 21" is made a condition of all sales made on the premise.
- That the premise employ's 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.

It is the view of the West Mercia Constabulary that the provision of these two conditions is necessary to promote the licensing objective of the protection of children from harm, and the prevention of public nuisance. They are the minimum conditions we would wish to see if the premise is to continue to be licensed.

This premise has been the subject of previous test purchase operations on the following dates when no sale was made

- 15<sup>th</sup> December 2007
- 16<sup>th</sup> December 2006
- 6<sup>th</sup> September 2006



S G Thomas  
Licensing Officer



Licensing Department  
Hereford Police Station  
Bath Street  
HEREFORD  
HR1 2HT  
Direct Dial 01432 364552 Fax:



**WEST MERCIA**  
**CONSTABULARY**  
TOGETHER - WORKING FOR SAFETY AND JUSTICE

8<sup>th</sup> January 2009.

Your Ref:

Herefordshire Council Licensing Section  
The County Offices  
PO Box 233  
Bath Street  
HEREFORD  
HR1 2ZF

Dear Sir / Madam

REF: BARGAIN BOOZE PLUS, HOLME LACY ROAD HEREFORD.  
APPLICATION TO REVIEW PREMISE LICENCE  
LICENSING ACT 2003

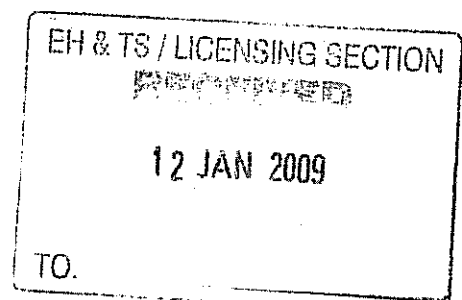
On behalf of the Chief Constable of the West Mercia Constabulary, I made an application to review the Premise Licence for, Bargain Booze Plus, Holme Lacy Road, Hereford, on the 25<sup>th</sup> November 2008.

The application was made in accordance with section 51 of the Licensing Act 2003, and for the purpose of section 52 (7) the relevant representations concerned the promotion of the licensing objectives of "the protection of children from harm " and "the prevention of crime and disorder "

The review was called because the premise failed test purchase operations on the 16<sup>th</sup> August 2008, and the 6<sup>th</sup> October 2008.

These operations involved the use of 15 or 16 year olds, visiting licensed premises and attempting to purchase alcohol, in accordance with section 149 (2) of the Licensing Act 2003.

On behalf of the West Mercia Constabulary, I intend to introduce the following evidence, that did not form part of the original grounds for the application to review the premise licence, but are the relevant representations concerned the promotion of the licensing objectives of "the protection of children from harm " and "the prevention of crime and disorder "



In the December 2008, the West Mercia Constabulary and Herefordshire Council Trading Standards Department carried out a further test purchase operation in the county.

- This premise was the subject of a test purchase operation on the 15<sup>th</sup> December 2008, and a sale was made to a 16 year old female.

In accordance with section 53 C (3) (A) the West Mercia Constabulary would seek the licensing authority to modify the conditions on the licence by the addition of the following.

- That the use of "challenge 21" is made a condition of all sales made on the premise.
- That the premise employ's 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 a personal licence holder is on the premise at all times it is authorised for the sale of alcohol.

It is the view of the West Mercia Constabulary that the provision of these three conditions is necessary to promote the licensing objective of the protection of children from harm, and the prevention of public nuisance. They are the minimum conditions we would wish to see if the premise is to continue to be licensed.



S G Thomas  
Licensing Officer



HEREFORDSHIRE  
COUNCIL

Environment & Culture Directorate  
Director: Michael Hainge

Regulatory Committee  
Council Chamber  
Brockington  
Hereford  
HR1 1SH

Your Ref:

Our Ref: TJT/CE

Please ask for: Mr T Thome

Direct Line / Extension: (01432) 261697

Fax: (01432) 261982

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15 December 2008

Dear Councillors

**Bargain Booze Plus – 44 Holme Lacy Road, Hereford HR2 6BZ**

I am writing to make representations in relation to the application for review of the above premise alcohol licence made by West Mercia Constabulary.

I feel it is relevant to make the Committee aware of the full test purchase history of the store, which I have done via the following table:-

Date	Sale/No Sale	Age of buyer
6/10/08	SALE	16
12/08/08	SALE	16
15/12/07	NO SALE	
16/12/06	NO SALE	
06/09/06	NO SALE	
24/08/05	SALE	16

In August this year we carried out test purchasing at almost every off sales retailer in the county. 19 out of 56 premises sold to our 16 year old volunteers. In October we retested these 19 retailers who had sold in August. Bargain Booze Plus sold both in August and October this year. These two sales within 3 months was the reason for the application by the police for this review. Further information I believe the committee should be aware of is that Mr Alan Hudson is the premise licence holder not only of this shop but also of the Bargain Booze at 3 Yazor Road, Hereford HR4 0LZ. At the latter site on 1<sup>st</sup> March 2008 Mr Alan Hudson himself sold alcohol to our 16 year old volunteer. The Yazor Road site also sold to an under age volunteer on 7<sup>th</sup> September 2006. Alan Hudson has been the DPS at the Yazor Road premises since 16/11/07. He was also the DPS at Bargain Booze Plus, Holme Lacy Road from November 2005 to 26/11/07 when it changed to a Louise Barsacq.



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Should the committee decide that the premise licence is to remain in force and additional conditions imposed then I respectfully suggest a Challenge 25 Policy and all alcohol sales to be made only be a personal licence holder. There are of course many other conditions which may be appropriate.

I am sure you are aware of the detailed letter sent out by the Minister for Culture Media and Sport, on 19<sup>th</sup> September 2008, regarding enforcement of the Licensing Act 2003 and including a copy of the Evaluation of the Impact of the Act dated 4<sup>th</sup> March 2008.

Relevant extracts I believe are as follows:-

"A key part of the approach outlined by the Secretary of State was for authorities to use local intelligence and knowledge to identify problem premises and to seek licence reviews with the intention of applying tough conditions as a 'yellow card' with the threat of revocation at a further review ('a red card') should they fail to improve"

(Ministerial Written Statement 4/March/2008):-

"We will change the offence of "persistently selling alcohol to a person under 18" from 'three strikes' to 'two strikes' in three months. This means that any seller who twice sells to underage drinkers and is caught doing so will immediately lose their licence".

"The message must be clear to all: breach your licensing conditions and you face severe and costly restrictions on your business – with a new yellow card and red card alert system. A yellow card will put the problem premises on immediate probation together with tough and uncompromising sanctions".

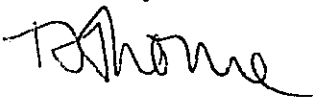
"First intervention (Yellow Card):-

Responsible authorities will be encouraged to propose a package of tough new conditions to be added to the existing ones which are designed to combat the identified problem. The kinds of conditions we have in mind are set out in Annex A (I have attached a full copy of Annex A). These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises. Such action should be supplemented where appropriate by:-

- Removal of the designated premises supervisor
- Suspension of the licence for between 1 day and 3 months according to the circumstances.
- Restriction on trading hours – cutting hours of trading in alcohol.
- Clear warning that a further appearance will give rise to a presumption of revocation".

If I can be of any further assistance to the Committee then please do not hesitate to contact me.

Yours faithfully



**TIM THORNE**  
**PRINCIPAL TRADING STANDARDS OFFICER**  
**ENVIRONMENTAL HEALTH & TRADING STANDARDS**



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HEREFORDSHIRE  
COUNCIL

Environment & Culture Directorate  
Director: Michael Hainge

Regulatory Committee  
Council Chamber  
Brockington  
Hereford  
HR1 1SH

Your Ref:

Our Ref: TJT/CE

Please ask for: Mr T Thorne

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17 December 2008

Dear Councillors

**Bargain Booze Plus – 44 Holme Lacy Road, Hereford HR2 6BZ**

I am writing to make further representations in relation to the application for review of the above premise alcohol licence made by West Mercia Constabulary.

In December this year in conjunction with the police we decided to retest again all the premises which had sold alcohol to our under age volunteers back in August. On the evening of 15<sup>th</sup> December 2008 the above premises again sold alcohol (2L bottle of Strongbow) to our 16 year old girl volunteer. This makes a total of 3 separate under age sales in 4 months which is of course totally unacceptable. The underage sales have therefore taken place on 12/08/08, 06/10/08 and 15/12/08.

This further sale was despite on 20<sup>th</sup> November one of the owners of the business, Mr Ian Hudson, contacting me for advice on preventing alcohol sales. I advised that the minimum precaution was a Challenge 21 Policy and since that was not working a Challenge 25 might be more appropriate. Also around that date one of our officers delivered to Mr Hudson's store two copies of a CD Rom produced by Trading Standards which gives comprehensive advice on underage sales.

Yours faithfully

TIM THORNE  
PRINCIPAL TRADING STANDARDS OFFICER  
ENVIRONMENTAL HEALTH & TRADING STANDARDS



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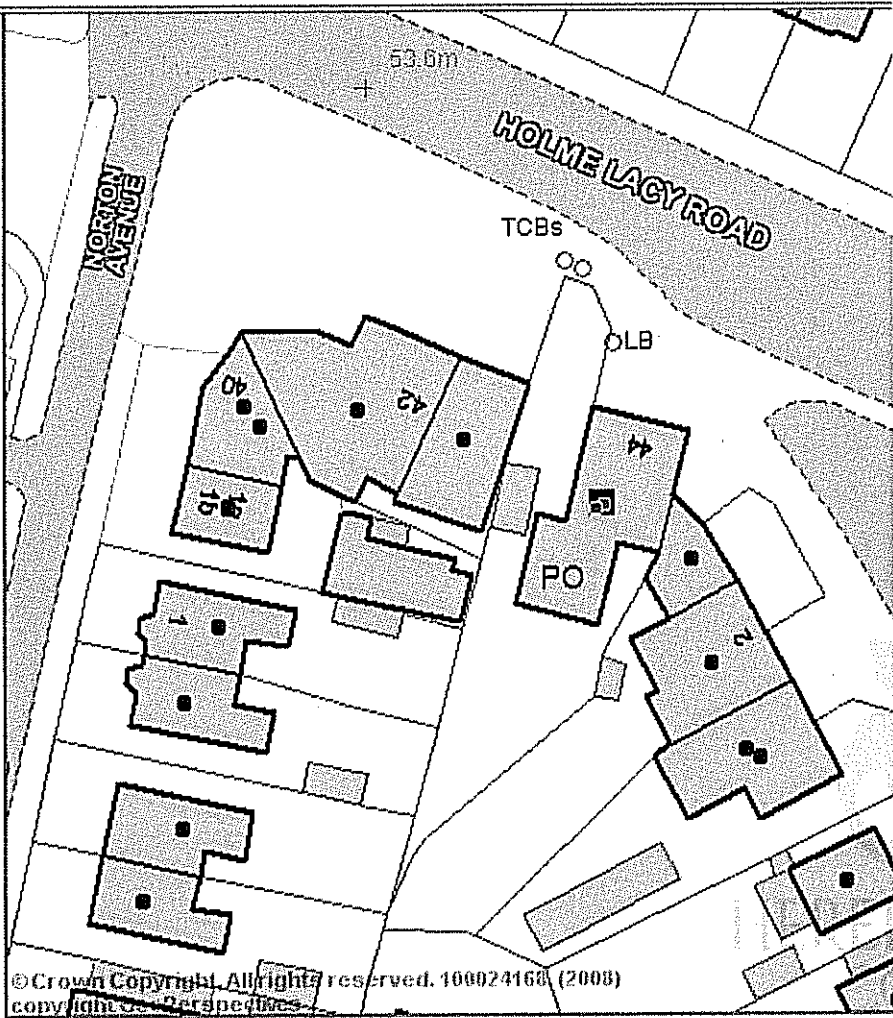
Herefordshire. IntraMap

Info Results

Addresses

Thoroughgoods 44 Holn

+ Address (1 of 1) Information (1)



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