

**MINUTES of the meeting of Regulatory Sub Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Monday 10 August 2009 at 10.00 am**

**Present:** Councillor Brig P Jones CBE (Chairman)

**Councillors:** PGH Cutter and A Seldon

**20. ELECTION OF CHAIRMAN**

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

**21. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor SPA Daniels.

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

Councillor PGH Cutter was noted as a substitute for Councillor SPA Daniels.

**23. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

**24. APPLICATION FOR A REVIEW OF A PREMISES LICENCE 'THE BRITANNIA INN, COTTERELL STREET, HEREFORD, HR4 0HH.'** (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 two local residents.

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, Mr Jones, Mr Pandelli and Dr Jobst, three of the local residents in support of the review, addressed the sub-committee. They made a number of points: including:

- Concerned about the level of noise and disturbance emanating from the premises.
- Punch Taverns had been notified of the concerns but the situation had not improved.
- Some local residents felt intimidated and were not willing to attend the hearing.
- It was alleged that a DJ at the premises had made comments inciting damage to neighbouring properties.
- The situation had improved during the review procedure.
- Local residents had been verbally abused by patrons of the Britannia Inn.
- Music and noise from the beer garden had meant that local residents could not use their gardens.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Phipps, the premise licence holder's Legal advisor, addressed the sub-committee. He raised a number of points, including:

- Could not comment on the allegations regarding the DJ as it was hearsay.
- There had been problems at the premises in the past but there had been a significant improvement recently.
- Prior to the current licensee the premises had been operated by the same publican for 10 years.
- The licensee's son had been employed to work in the premises but this employment had recently ceased.
- Revocation or suspension of the licence were not deemed to be suitable actions for the committee to take, the amendment of the licence to include relevant conditions would be a more appropriate action.
- The premises should be permitted to remain open until midnight if there is no longer an issue regarding noise.
- Happy to remove any entertainment from outside of the premises.

In response to questions raised by the Sub-Committee and local residents, Mr Crank made the following points:

- Recorded music in outside areas had been a concern, happy to remove this provision by means of a condition on the licence.
- The area manager visited the premises on a fortnightly basis.
- That determination of the application be deferred for a period of 3 months to monitor improvements at the premises.

All parties were given the opportunity to sum up before 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.

## **RESOLVED**

**That the premise licence in respect of The Britannia Inn, Cotterell Street, Hereford, HR4 0HH, be amended as detailed in the attached decision notice.**

### **25. APPLICATION FOR A REVIEW OF A PREMISES LICENCE 'MCCOLLS, 7 THE OVAL, HEREFORD, HR2 7HG.'** (Pages 3 - 4)

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 a recent test purchase operation. The sale was made in June 2009. The Sub-Committee were advised that the premises had previously been reviewed on 4 November 2008 when conditions were added to the licence.

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, Inspector Gary Thomas, representing West Mercia Police Authority addressed the sub-committee. 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 the licence be revoked.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Tim Thorne, the Principal Trading Standards Officer addressed the sub-committee. He advised Members that the store had passed a test purchase operation on 8 August 2009. He informed Members that since the premises had failed the test purchase a procedure had been introduced requiring every sale of alcohol to be authorised by two members of staff.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Crank, the premise licence holder's Legal advisor, addressed the sub-committee. He raised a number of points, including:

- 3 sales had been made in 10 test purchase operations.
- The latest test purchase in the store had not resulted in a sale.
- 10 Personal licence holders were employed in the store.
- The employee who made the sale had a good record of refusing sales, highlighted by the details contained within the submitted refusal log.
- A thorough investigation had taken place following the sale.
- Employee believed that she had requested identification from the person who made the purchase on a separate occasion.
- Employee issued with a final written warning.
- The company had introduced internal test purchase operations.
- New £18 million till and CCTV system being introduced to assist staff in age restricted sales nationally.
- All sales of alcohol were now countersigned to ensure no breaches were made.
- The Designated Premises Supervisor had been removed from the store and replaced.
- The area manager's store visits had been increased to a fortnightly visit.
- An error by the employee. She had received full training.
- Revocation of the licence would be punitive and had an impact on the business which could result in a loss of jobs.
- PC Thomas had viewed the training records and he was happy with the training offered.
- A short suspension may be more appropriate than a revocation of the licence.

In response to questions raised by the Sub-Committee, Mr Crank made the following points:

- The store turnover was £28000, alcohol sales accounted for £14000 of the turnover.
- Between 500 and 600 people visited the store per day.
- The nearest Post Office if the store closed would be within the city centre.

All parties were given the opportunity to sum up before 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.

## **RESOLVED**

**That;**

- i) the premise licence in respect of McColl's, 7 The Oval, Hereford, HR2 7HQ, be amended as detailed in the attached decision notice.**
- ii) the premises licence be suspended for a period of 7 days commencing 00:01 on 1 September 2009.**

**26. APPLICATION FOR A REVIEW OF A PREMISES LICENCE 'COLLEGE GREEN POST OFFICE AND STORES, 33/35 COLLEGE GREEN, HEREFORD, HR1 1HW.'**  
(Pages 5 - 6)

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 College Green Post Office and Stores had failed in two test purchase operations on 19 August 2008 and 3 June 2009.

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, Inspector Gary Thomas, representing West Mercia Police Authority addressed the sub-committee. He felt that in order to promote the licensing objectives of the prevention of public nuisance and the protection of children from harm it was necessary to amend the premises licence to include further conditions.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Tim Thorne, the Principal Trading Standards Officer addressed the sub-committee. He noted the poor record of the store in respect of test purchase operations. He advised Members that the employee who had made the recent sale had received no training in age restricted sales. He requested that a 'Challenge 25' condition be added to the licence.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Lloyd, the premise licence holder's Legal advisor, addressed the sub-committee. He raised a number of points, including:

- The premise was operated by a small private company with two directors who had managed the premises for 5 years.
- The store also contained a post office.
- Full training in age restricted sales offered by Spar.
- CCTV and Till prompts were in place in the store.
- A member of staff had been dismissed for the first test purchase sale and another member of staff had resigned after making a more recent test purchase sale.
- A new Manager had been appointed at the store.

- Additional training had been booked for 7 staff.
- 'Challenge 21' signage had been put up in the store and all staff wore 'Challenge 21' badges.
- Happy to accept all of the proposed conditions.

All parties were given the opportunity to sum up before 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.

## **RESOLVED**

### **That;**

- iii) the premise licence in respect of College Green Post Office and Stores, 33/35 College Green, Hereford, HR1 1HW, be amended as detailed in the attached decision notice.**
- iv) the premises licence be suspended for a period of 24 hours commencing 00:01 on 1 September 2009.**

The meeting ended at 2.00 pm

**CHAIRMAN**





**HEREFORDSHIRE COUNCIL**

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

<b>PREMISES</b>	The Britannia Inn
<b>LICENCE HOLDER</b>	Punch Taverns PLC
<b>APPLICANT'S NAME</b>	Mr RA and GP Jones Miss J Elwell and M Flakowska
<b>APPLICATION TYPE</b>	Review of Premises Licence
<b>PANEL MEMBERS</b>	Councillor P Jones CBE (Chairman) Councillor PGH Cutter Councillor A Seldon
<b>DATE OF MEETING</b>	10 August 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 Mr Jones, Dr Jobst, and Mr Pandelli, in support of the review, together with the Legal Advisor and Area Manager for Punch Taverns, the Premises Licence Holders. They also heard a representation from Inspector Gary Thomas from West Mercia Police.

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

- No live or amplified music to be played outside at any time
- No open containers to be removed from the front of the premises.
- No open containers to be removed from the premises to the outside area located at the rear after 2300.
- A terminal hour for all licensable activities of 2300.
- A representative of Punch Taverns PLC to attend the premises on no less than a monthly basis to ensure that the Licensee be properly supported and any local concerns be fully considered. These meetings to take place for a period of 6 months.

**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.

*\* 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)**

<b>PREMISES</b>	McColl's
<b>LICENCE HOLDER</b>	Martin McColl Ltd
<b>APPLICANT'S NAME</b>	West Mercia Police
<b>APPLICATION TYPE</b>	Review of Premises Licence
<b>PANEL MEMBERS</b>	Councillor P Jones CBE (Chairman) Councillor PGH Cutter Councillor A Seldon
<b>DATE OF MEETING</b>	10 August 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 Inspector Thomas, representing the West Mercia Police who had requested the review, together with Mr Crank, Mr Moody and Ms Smith, on behalf of Martin McColl Ltd. They also heard a representation from Mr Thorne, the Principal Trading Standards Officer.

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 activities for a period of 7 days commencing at 0001 on Tuesday 1 September 2009.

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

- Two members of staff must endorse each sale of alcohol by signature.

**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.

A suspension of the licence was deemed necessary and proportionate to permit time for intensive staff retraining to take place.

**APPEAL INFORMATION**

Under Schedule 5 Section 2, the applicant or any party making representation may appeal against the decision. Section 9 states that such an appeal must be made to the Magistrates Court within a period of 21 days from the date that the applicant is notified in writing of the decision.

Should you wish to appeal this decision then it is recommended that you obtain your own legal advice or contact the Magistrates Court at Bath Street, Hereford.

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*(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)**

<b>PREMISES</b>	College Green Post Office and Stores
<b>LICENCE HOLDER</b>	Gamron Ltd
<b>APPLICANT'S NAME</b>	West Mercia Police
<b>APPLICATION TYPE</b>	Review of Premises Licence
<b>PANEL MEMBERS</b>	Councillor P Jones CBE (Chairman) Councillor PGH Cutter Councillor A Seldon
<b>DATE OF MEETING</b>	10 August 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 Inspector Thomas, representing West Mercia Police, the applicant for the review together with Mr Lloyd and Mr Morgan, representing College Green Post Office and Stores. They also heard a representation from Mr Thorne, the Principal Trading Standards Officer.

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 activities for a period of 24 hours commencing at 0001 on Tuesday 1 September 2009.

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

- That the use of Challenge 25 is made a condition of all alcohol sales made on the premises.
- That the premises employ proven training methods for all staff in age restricted sales and that written records of training are kept and made available for inspection.

**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.

The Committee considered the suspension of the premises licence to be reasonable and appropriate in order to allow for the consolidation of staff training already planned to take place on 20 August 2009.

**APPEAL INFORMATION**

Under Schedule 5 Section 2, the applicant or any party making representation may appeal against the decision. Section 9 states that such an appeal must be made to the Magistrates Court within a period of 21 days from the date that the applicant is notified in writing of the decision.

Should you wish to appeal this decision then it is recommended that you obtain your own legal advice or contact the Magistrates Court at Bath Street, Hereford.

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