

MINUTES of the meeting of Regulatory Sub Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday 13 May 2011 at 1.00 pm

Present: Councillor JW Hope MBE (Chairman)

Councillors: A Seldon and JD Woodward

94. ELECTION OF CHAIRMAN

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

95. APOLOGIES FOR ABSENCE

No apologies for absence were received.

96. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the hearing.

97. DECLARATIONS OF INTEREST

There were no declarations of interest made.

98. APPLICATION FOR A REVIEW OF THE PREMISES LICENCE 'THE PRINCE OF WALES, CHURCH LANE, LEDBURY, HR8 1DL.'

The Licensing Officer advised the sub-committee that the review in respect of the Prince of Wales had been adjourned as the premises licence holder had agreed to submit a minor variation to the premises licence in order to address the concerns of the police. It was noted that the item would be adjourned until 27 May 2011 in order to ensure that the minor variation was submitted, if no application was forthcoming, the review would be considered by the sub-committee on that date.

RESOLVED

That the sub committee adjourn the item to the meeting of the Regulatory Sub Committee on 27 May 2011 pending the receipt of an application for a minor variation from the premises licence holder for the Prince of Wales, Ledbury.

99. APPLICATION FOR A REVIEW OF THE PREMISES LICENCE 'THE BELL INN, 39 ETNAM STREET, LEOMINSTER, HR6 8AE.' (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 West Mercia Police based on the licensing objectives regarding the prevention of crime and disorder and the protection of children from harm.

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 Regulatory Services Manager to present the report.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr James Mooney, representing West Mercia Police who had applied for the review, addressed the sub-committee. He made a number of points, including:

- The premises had been subject to two failed test purchase operations in December 2010 and February 2011.
- The same member of staff was responsible for both sales, resulting in an 80 fixed penalty for the first offence and a court summons being issued for the second offence.
- 12 failures within a 12 week period indicate a lack of awareness, understanding and necessary systems in place to prevent under age sales.
- Mr Hall, the designated premises supervisor, had been obstructive and difficult throughout the process.
- The steps taken by the DPS since the incidents was lacking in detail and information and did not show a proper understanding of what was required.
- The police were not applying for the DPS to be removed but were requesting four conditions to address their concerns.

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:

- The premises were owned by Punch Taverns with Mr Hall being the lessee.
- The premise was a small, real ale based, community public house.
- Although the two sales were disappointing there were no other disorder issues at the premises.
- Mr Hall's reaction to the test purchase failures was regrettable and he was disappointed and embarrassed by his actions.
- Mr Hall had been at the premises for 6 years and lived above the premises with his wife and child.
- The premises did not have a high turnaround of staff with the same team in place for the previous 6 years.

The Licensing Officer advised the sub committee that there were a number of outdated conditions attached to the licence and requested the sub committee's approval that these conditions could be amended or removed from the licence in consultation with the applicant's legal advisor. He also requested that the word 'licensing officer' be replaced with 'authorised person as defined in schedule 13 of the Licensing Act 2003'.

In response to a question, Mr Phipps advised that in his opinion the issue was not one of staff complacency.

Mr Keenan and Mr Mann both addressed the sub committee in support of the licence holder. They reiterated the points made by the applicant's legal advisor regarding the nature of the public house.

The applicant's legal advisor requested that the condition regarding staff training be amended to allow fully trained staff to train newly appointed staff.

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 legal and procedural matters.

When the meeting was reconvened the Council's Legal Advisor notified all parties of the sub committee's decision by reading out the following statement:

"The Regulatory Sub Committee has decided that the premises licence conditions in respect of the Bell Inn be modified to:

- 1. Incorporate the conditions requested by West Mercia Police. The sub committee clearly requires in respect of condition 1 that certifiable training be provided by an accredited external training provider.*
- 2. Other licence conditions presently being agreed between the Council's Licensing Officer and Punch Taverns shall be finalized within 14 days and will form part of the licence conditions. The sub committee's Chairman's approval shall be sought to these conditions."*

RESOLVED

That the premise licence in respect of The Bell Inn, 39 Etnam Street, Leominster, HR6 8AE, be amended as detailed in the attached decision notice.

100. APPLICATION FOR A REVIEW OF THE PREMISES LICENCE 'THE MAN OF ROSS, WYE STREET, ROSS-ON-WYE, HR9 7BS.'

The Licensing Officer advised the sub committee that correct service of the notice for the review for the Man of Ross at Ross on Wye could not be proved and therefore the application for the review should be dismissed.

RESOLVED

That the application for a review of the premises licence in respect of the Man of Ross be dismissed.

The meeting ended at 2.03 pm

CHAIRMAN

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

PREMISES	The Bell Inn
LICENCE HOLDER	Punch Taverns PLC
APPLICANT'S NAME	West Mercia Police
APPLICATION TYPE	Review of Premises Licence
PANEL MEMBERS	Councillor JW Hope MBE (Chairman) Councillor A Seldon Councillor JD Woodward
DATE OF MEETING	13 May 2011

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 Mooney, representing the West Mercia Police who had requested the review, together with Mr Phipps, on behalf of Punch Taverns PLC, and Mr Keenan and Mr Mann, two interested parties who had made representations against the review.

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:-

- All bar staff engaged in the sale of alcohol to be trained in responsible alcohol retailing to the minimum standard of BIIAD Level 1 or any equivalent training offered by Herefordshire Council Trading Standards within 1 month of commencing employment at the premises. Where there are existing staff this training shall be completed within 3 months of the date that this condition first appears on the licence. Training records shall be kept on the premises and made immediately available on request to the police or any authorised person as defined in section 13 of the Licensing Act 2003.
- An incident log must be kept at the premises and made immediately available on request to the police or any authorised person as defined in section 13 of the Licensing Act 2003. The incident log must record the following:
 - a) all crimes reported at the venue
 - b) all ejections of patrons
 - c) any complaints received
 - d) any incidents of disorder
 - e) seizures of drugs or offensive weapons

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REGULATORY COMMITTEE DECISION NOTICE (THE LICENSING ACT 2003)

- f) any refusal of the sale of alcohol
- g) any visit by a relevant authority or emergency service
- The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of the police or any authorised person as defined in section 13 of the Licensing Act 2003. Prominent, clear and legible signage (in not less than bold 32 point font) shall also be displayed at all entrances to the premises as well as at, at least one location behind any bar advertising the scheme operated.
- A personal licence holder shall be on duty at all times on a Friday and Saturday evening from 6pm until close or at any time from 30 minutes before the start of any regulated entertainment taking place at the premises.

ADDITIONAL ACTION REQUIRED

Other licence conditions presently being agreed between the Council's Licensing Officer and Punch Taverns PLC shall be finalised within 14 days and will form part of the new licence. The Sub Committee Chairman's approval shall be sought to these further conditions.

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.

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.

** 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.*