

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

**Present:** Councillor JW Hope MBE (Chairman)

**Councillors:** BA Durkin and Brig P Jones CBE

**In attendance:** Councillors PJ Edwards

**79. ELECTION OF CHAIRMAN**

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

**80. APOLOGIES FOR ABSENCE**

No apologies for absence were received.

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

There were no substitutes present at the hearing.

**82. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

**83. PUBLIC PATH DIVERSION ORDER TO DIVERT PART OF FOOTPATH EA6**

The Parks, Countryside and Leisure Development Manager presented a report about an application under Section 119 of the Highways act 1980 to divert part of Footpath EA6 at Eastnor. The landowner had made the application as the existing route was obstructed by pheasant rearing sheds.

The proposal had agreement from consultees, the local ward member and the parish Council. The applicant had agreed to meet the costs associated with the diversion. The proposal also met the criteria set out in the legislation and in particular that:

- it benefited the owner of the land;
- it was not substantially less convenient to the public; and
- it would be expedient to proceed with the proposal.

Mr Lee, representing the Ramblers' Association, had no objection to the application but advised that the existing paths should remain open prior to the diversion.

Having considered all aspects of the application, the Sub-Committee concurred with the view of the Parks, Countryside and Leisure Development Manager that the application should be approved

**RESOLVED:**

**THAT a Public Path Diversion Order be made in respect of part of Footpath EA6 at Eastnor under section 119 of the Highways Act 1980, as illustrated on drawing number D338/129-6.**

**84. PUBLIC PATH DIVERSION ORDER TO DIVERT PART OF FOOTPATH BE15**

The Parks, Countryside and Leisure Development Manager presented a report about an application under Section 119 of the Highways act 1980 to divert part of Footpath BE15 at Brilley. The landowner had made the application as Westwood Farm had been developed and the applicant was keen to divert the footpath around the gardens.

The proposal had agreement from consultees, the local ward member and the parish Council. The applicant had agreed to meet the costs associated with the diversion. The proposal also met the criteria set out in the legislation and in particular that:

- it benefited the owner of the land;
- it was not substantially less convenient to the public; and
- it would be expedient to proceed with the proposal.

Mr Lee, representing the Ramblers' Association, had no objection to the application but reminded the Sub-Committee that privacy was not a valid ground to allow a diversion.

Having considered all aspects of the application, the Sub-Committee concurred with the view of the Parks, Countryside and Leisure Development Manager that the application should be approved

**RESOLVED:**

**THAT a Public Path Diversion Order be made in respect of part of Footpath BE15 at Brilley under section 119 of the Highways Act 1980, as illustrated on drawing number D404/58-15.**

**85. APPLICATION FOR A VARIATION OF THE PREMISES LICENCE 'THE HOP POLE, 9 THE SQUARE, BROMYARD, HR7 4BP.'** (Pages 1 - 2)

The Regulatory Sub Committee was convened in order to determine an application for a variation of the premises licence in respect of the Hop Pole, 9 The Square, Bromyard, HR7 4BP. The application was submitted in accordance with Section 51 of the Licensing Act 2003.

The Chairman introduced the Members and Officers and asked any interested parties to introduce themselves. He advised them of the hearing procedures and asked if any party required an extension to the 10 minute time limit for public speaking. Mr Stevens, the applicant, requested an extension to the time limit in order to address all of the points raised by the Police in their representation.

The Licensing Officer presented the report and advised Members that a copy of the advertisement had been received by the Licensing Department and that it was acceptable.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Mooney, representing West Mercia Police addressed the sub-committee. He drew Members' attention to the complaints that the police had received in respect of noise and disorder in and around the premises with the most recent incidents taking place on 12 December,

26 November and 20 November 2011. He advised the Sub-Committee that the outside areas the applicant had applied for were within the Alcohol Free Zone and therefore he felt that the application should be refused.

Mr Stevens, the applicant, addressed the sub-committee in response to the concerns raised by the Police. He gave Members a detailed history of his ownership of the premises and also gave a detailed account of the way in which the premises was managed and operated. He noted that the Police had presumed that if people were drinking in the premises outside of their agreed licensing hours then there must be a breach of the licence, he stated however that this was not the case as guests of the hotel were not subject to the same restrictions.

Mr Stevens went on to give specific details of the background of the current application and advised that his premises was the only one in Bromyard that did not benefit from an outside drinking area. He added that he would be happy to withdraw the application relating to the front of the premises and just apply for an outside area at the back of the premises to be licenced.

The Sub-Committee retired to make their decision, the Acting Principal Lawyer and the Democratic Services Officer also retired to assist them with procedural matters.

At the conclusion of the meeting the Acting Principal Lawyer read out the sub committee's decision.

## **RESOLVED**

**THAT the variation of the premises licence be rejected.**

### **86. APPLICATION FOR A REVIEW OF THE PREMISES LICENCE 'MCCOLLS, 7 THE OVAL, HEREFORD, HR2 7HG.'**

The Committee were asked to deal with a preliminary point prior to determining the application. The Licensing Officer drew the Sub-Committee's attention to an email on page 121 of their supplementary documents which had been submitted by the applicant's legal advisor following a meeting with the Licensing Authority. The Licensing Officer confirmed that the Sub-Committee could adjourn the item until a given date if it was deemed to be in the public interest.

Mr David Crank, the applicant's legal adviser, addressed the Sub-Committee and advised that an adjournment was being requested subject to his clients agreeing to 5 voluntary conditions. He advised that the conditions were store specific and would address the concerns of the Licensing Authority. He added that the current review would remain undetermined until a future date, to be agreed with all parties.

The Principal Trading Standards Officer advised the Sub-Committee that he was in agreement with the request for an adjournment.

The voluntary conditions agreed with the applicants are as follows:

1. A personal licence holder must be on the premises at all times when alcohol is sold.
2. Only a personal licence holder shall sell alcohol. Each and every sale must be witnessed at the time by another member of staff. That member of staff must be trained to BIIAB Level 1. Both the personal licence holder and the other member of staff, making the sale, must sign the till receipt at the time prior to the alcohol being handed over. Evidence shall be kept on site of the personal Licence and

the BIIAB Qualification of the sellers and shall be made immediately available to an authorised officer (as defined by Section 13 Licensing Act 2003) and an authorised trading standards officer.

3. The premises licence holder must conduct monthly Serve Legal Test Purchases. Records of the visit must be supplied to the Local Authority Licensing Officer within 7 days of the test. The record shall show the product attempt to be purchased, the name of the server, the date and time of attempted sale.
4. The premises shall operate a Challenge 30 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of an authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised trading standards officer of Herefordshire Council. Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed at all entrances to the premises as well as at, at least one location behind any counter advertising the scheme operated.
5. All staff engaged in the sale of alcohol to be trained in Responsible alcohol retailing to the minimum standard of BIIAB level 1 or any equivalent training agreed by Herefordshire Council trading standards within one month of commencing employment at the premises. (Where there are existing staff this training shall be completed within one month of this date (13 December 2011). Such training shall be bespoke to McColls, The Oval, Hereford. All staff shall be re-trained six monthly thereafter. Training records shall be kept on the premises and shall be produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.

## **RESOLVED**

**THAT the determination of the application for a review of the premises licence in respect of McColl's, 7 The Oval, Hereford, HR2 7HG, be adjourned until 3 April 2012.**

### **87. APPLICATION FOR A REVIEW OF THE PREMISES LICENCE 'STOKES STORES, 4 HOARWITHY ROAD, PUTSON, HEREFORD, HR2 6HA.'** (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 Herefordshire Council's Trading Standards Department 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 Licensing Officer to present the report.

The Licensing Officer advised the Sub-Committee that the premises had previously been the subject of a review in 2008 following a joint West Mercia Police and Herefordshire Council test purchase operation. He advised that at that review further conditions were attached to the licence and the licence was suspended for a period of 24 hours.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr David Hough, representing Herefordshire Council's Trading Standards Department, who had applied for the review, addressed the sub-committee. He made a number of points, including:

- On the 15 October 2011 at 20:10 hours a 16 year old female was served alcohol at Stokes' Stores.
- At the time of the sale there were 2 staff members present.
- The female member of staff requested identification but was advised by the male member of staff, later identified to be a personal licence holder, that the purchaser was old enough.
- Both members of staff had received training in age restricted sales.
- There was a refusal register present at the premises but it had very few entries on it.
- 3 conditions had been agreed with the premises licence holder, one additional condition had been requested but had not been agreed.

In response to a question the Principal Trading Standards Officer confirmed that the female who had made the purchase was 5' 2" tall.

Mr James Mooney, representing West Mercia Police, also addressed the Sub-Committee and advised that he agreed with all 4 conditions suggested by the Council.

In response to a question from Mr Mike Nickson, the premises licence holder's licensing advisor, Mr Mooney confirmed that the police did not offer licensing training as it was not a police responsibility. In response to a further question he advised that Community Support Officers were also not trained to offer licensing advice and training.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Mike Nickson, the premises licence holder's licensing advisor, addressed the sub-committee. He made a number of points, including:

- The Premises had been the subject of a previous review as the Council's Licensing Policy required all premises who failed a test purchase operation to be reviewed.
- The Council should work closely with small retailers to offer suitable training rather than just acting as an enforcer.
- The previous 'Challenge 21' had done the premises no favours as they would have been operating a 'Challenge 25' policy otherwise and the sale may then have not taken place.
- The Personal Licence Holder was of the opinion that the female who was served looked 21, when questioned afterwards he did not feel she looked 25 so the sale may have been avoided if 'Challenge 25' had been in place.
- The sale was regrettable.
- All staff had undertaken further training since the sale had taken place.
- There had been 7 test purchase operations since the 2008 sale and the store had passed all of these.
- The condition that has not been agreed is unworkable and should not be attached to the licence.
- The money spent on the 7 test purchase operations could have been used to offer some training to small stores in Herefordshire.
- Need to educate as well as enforce.
- Recently won a national award for work done with Cheshire Council, who had moved away from an enforcement based method and now offered better communication and training.
- All employees at Stokes Stores were now either BIIAB Level 1 or Level 2 qualified.
- Stokes Stores training plan went beyond the legal requirement and was extremely thorough.

In response to the points raised by Mr Nickson, Mr Mooney advised that the premises licence holder could have applied for a minor variation in order to introduce 'Challenge 25'.

The Sub-Committee retired to make their decision, the Acting Principal Lawyer and the Democratic Services Officer also retired to assist them with procedural matters.

The Acting Principal Lawyer read out the decision of the Sub-Committee at the conclusion of the meeting.

## **RESOLVED**

**That the License be suspended in respect of all licensable activity for a period of 72 hours commencing at midday on Friday 13 January 2012 and concluding at midday on Monday 16 January 2012**

**That the following conditions be attached to the Premises Licence in respect of Stokes Stores, 4 Hoarwithy Road, Putson, Hereford, HR2 6HA:**

- 1 All staff engaged in the sale of alcohol to be trained in responsible alcohol retailing to the minimum standard of BIIAB level 1 or any equivalent training agreed by Herefordshire Council Trading Standards within 3 months of commencing employments at the premises. (Where there are existing staff this training shall be completed within 1 month of the date of this condition first appears on the licence). Retraining to take place every 6 months thereafter. Training records shall be kept on the premises and produced to the police or an authorised person (as defined by section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.**
- 2 A written register of refusals will be kept including a description of the people who have been unable to provide required identification to prove their age. Such records shall be kept for a period of 12 months and will be reviewed on a weekly basis by the Designated Premises Supervisor and produced to the police or an authorised person (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.**
- 3 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 to the police or an authorised person (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council. Prominent, clear and legible signage, in not less than 32 font bold, shall also be displayed at all entrances to the premises as well as at, at least one location behind any counter advertising the scheme operated.**
- 4 Every sale to be made by a Personal Licence Holder and witnessed by another member of staff who has been trained to a minimum of BIIAB level 1. Every sale to be signed off by both members of staff immediately at the time of the sale and records kept. Those records shall be kept on the premises and produced to the police or an authorised person (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.**

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

<b>PREMISES</b>	The Hope Pole
<b>APPLICANT'S NAME</b>	Mr R Stevens
<b>APPLICATION TYPE</b>	Variation to Premises Licence
<b>PANEL MEMBERS</b>	Councillor JW Hope MBE (Chairman) Councillor BA Durkin Councillor Brig P Jones CBE
<b>DATE OF MEETING</b>	13 December 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 West Mercia Police, who had made a representation in respect of the application, and Mr Stevens, the applicant.

Having heard the representations and considered all of those matters brought before them, the Panel decided to **REJECT** the said application on the following basis:-

- The Sub-Committee did not consider that the grounds of the application justify an exception to the current alcohol exclusion order pertaining to both the front and the rear of the premises.
- The Sub-Committee also bases its decision in respect of two of the licensing objectives, namely, the prevention of public nuisance and the prevention of crime and disorder. The Sub-Committee is of the opinion that the application does not promote these licensing objectives as a result of complaints of disorder at, and around, the premises.

**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.





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

<b>PREMISES</b>	Stokes Stores
<b>PREMISES LICENCE HOLDER</b>	Mrs Christine Merrett
<b>APPLICANT'S NAME</b>	Herefordshire Council Trading Standards
<b>APPLICATION TYPE</b>	Review of Premises Licence
<b>PANEL MEMBERS</b>	Councillor JW Hope MBE (Chairman) Councillor BA Durkin Councillor Brig P Jones CBE
<b>DATE OF MEETING</b>	13 December 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 David Hough, the Principal Trading Standards Officer, together with Mike Nickson, the premises licence holder's licensing consultant.

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 License be suspended in respect of all licensable activity for a period of 72 hours commencing at midday on Friday 13 January 2012 and concluding at midday on Monday 16 January 2012\*.

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

- All staff engaged in the sale of alcohol to be trained in responsible alcohol retailing to the minimum standard of BIIAB level 1 or any equivalent training agreed by Herefordshire Council Trading Standards within 3 months of commencing employments at the premises. (Where there are existing staff this training shall be completed within 1 month of the date of this condition first appears on the licence). Retraining to take place every 6 months thereafter. Training records shall be kept on the premises and produced to the police or an authorised person (as defined by section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.
- A written register of refusals will be kept including a description of the people who have been unable to provide required identification to prove their age. Such records shall be kept for a period of 12 months and will be reviewed on a weekly basis by the Designated Premises Supervisor and produced to the police or an authorised person (as defined by Section 13 of

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

the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.

- 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 to the police or an authorised person (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council. Prominent, clear and legible signage, in not less than 32 font bold, shall also be displayed at all entrances to the premises as well as at, at least one location behind any counter advertising the scheme operated.
- Every sale to be made by a Personal Licence Holder and witnessed by another member of staff who has been trained to a minimum of BIIAB level 1. Every sale to be signed off by both members of staff immediately at the time of the sale and records kept. Those records shall be kept on the premises and produced to the police or an authorised person (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.

**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, with particular attention being given to paragraph 11.22, 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 two of the four licensing objectives, namely the prevention of crime and disorder and the protection of children from harm.

**APPEAL INFORMATION**

Under Schedule 5 Paragraph 8, 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.*