

MINUTES of the meeting of Regulatory Sub Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Tuesday 3 April 2012 at 2.00 pm

Present: Councillor JW Hope MBE (Chairman)

Councillors: BA Durkin and Brig P Jones CBE

118. ELECTION OF CHAIRMAN

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

119. APOLOGIES FOR ABSENCE

No apologies for absence were received.

120. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the hearing.

121. DECLARATIONS OF INTEREST

There were no declarations of interest made.

122. APPLICATION FOR A REVIEW OF THE PREMISES LICENCE 'MCCOLLS, 7 THE OVAL, HEREFORD, HR2 7HG.' (Pages 1 - 2)

The Regulatory Sub-Committee was re-convened in order to determine an application for a review of a premises licence for McColl's, 7 The Oval, Hereford. The Review had been applied for by Herefordshire Council's Trading Standards team. The review related to the licensing objectives of the protection of children from harm and the prevention of crime and disorder.

The Chairman introduced the Members and Officers and asked any interested parties to introduce themselves. The following interested parties were noted:

- David Hough (The Applicant for the Review)
- James Mooney (West Mercia Police)
- David Crank (Premises Licence Holder's Legal Advisor)

The Chairman advised the attendees of the hearing procedures and asked if they required an extension to the 10 minute time limit for public speaking, no extensions to the time limit were requested.

The Licensing Officer presented his report. He advised Members that the determination of the application was previously adjourned on 13 December 2011 when the applicants had volunteered a number of conditions and requested an adjournment for them to be given sufficient time to demonstrate that the conditions would address the concerns raised by Trading Standards.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, David Hough, the applicant for the review, addressed the sub-committee. He advised Members that a number

of visits to the premises had been undertaken since the adjournment of the meeting in November 2011 and that the volunteered conditions were being adhered to.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, James Mooney, representing West Mercia Police, addressed the sub-committee. He advised Members that West Mercia Police supported the review requested by Herefordshire Council Trading Standards. He added that the police had visited the premises on 14 occasions over the last 4 months and that the volunteered conditions had addressed the concerns which had resulted in the review being requested.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, David Crank, representing the Premise Licence Holder, addressed the sub-committee. He gave a detailed presentation on the circumstances that had led to the review as well as the steps that had been put in place to address the concerns of the police fully. He was of the opinion that the adjournment of the previous meeting had been of benefit to all parties and that it had given McColl's the opportunity to demonstrate that the proposed conditions that his client had offered were proportionate and fit for purpose

He went on to give further details in respect of the staffing levels at the store and advised the Sub-Committee that out of 13 staff employed, 10 were personal licence holders.

He gave details of the training arrangements that were in place at the store and advised that the training had been refreshed in both February and March of 2012. As well as the training issues he also addressed some of the steps that had been taken to reduce the risk of underage sales, these included a new CCTC system as well as tills with age check prompts.

In summing up he felt that the agreed conditions would address any concerns raised by the Police and Trading Standards and therefore requested that the Sub-Committee attach the conditions to the licence.

RESOLVED

That the following conditions be attached to the Premises Licence in respect of McColl's, 7 The Oval, Hereford, HR2 7HG:

- 1. A personal licence holder must be on the premises at all times when alcohol is sold.**
- 2. A personal licence holder must be involved in the sale of alcohol. Each and every sale must also 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.**
- 3. 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.**
- 4. The premises licence holder must conduct monthly Serve Legal Test Purchases. Records of the visit will remain on the premises and shall be made available to an authorised officer (as defined by Section 13 Licensing Act 2001) or an authorised trading standards officer upon request. The record shall show the product attempted to be purchased, the name of the server, the date and time of attempted sale.**

- 5. 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.**

- 6. 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 McColl's, 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.**

The meeting ended at 3.20 pm

CHAIRMAN



HEREFORDSHIRE COUNCIL

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

PREMISES	McColls
PREMISES LICENCE HOLDER	Martin McColl Ltd
APPLICANT'S NAME	Herefordshire Council Trading Standards
APPLICATION TYPE	Review of Premises Licence
PANEL MEMBERS	Councillor JW Hope MBE (Chairman) Councillor BA Durkin Councillor Brig P Jones CBE
DATE OF MEETING	3 April 2012 (adjourned from 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 David Crank, the premises licence holder's legal advisor.

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:-

- A personal licence holder must be on the premises at all times when alcohol is sold.
- A personal licence holder must be involved in the sale of alcohol. Each and every sale must also 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.
- The premises licence holder must conduct monthly Serve Legal Test Purchases. Records of the visit will remain on the premises and shall be made available to an authorised officer (as defined by Section 13 Licensing Act 2001) or an authorised trading standards officer upon request. The record shall show the product attempt to be purchased, the name of the server, the date and time of attempted sale.
- 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

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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.

- 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 McColl's, 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.

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.*