

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	13 MAY 2011
TITLE OF REPORT:	REVIEW OF A PREMISES LICENCE: THE BELL INN, ETNAM STREET, LEOMINSTER, HR6 8AE
PORTFOLIO AREA:	ENVIRONMENTAL HEALTH & TRADING STANDARDS PUBLIC HEALTH DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Ledbury

Purpose

To consider a review of a premises licence in respect of The Bell Inn, Etnam Street, Leominster, HR6 8AE.

Key Decision

This is not a Key Decision.

Recommendation

THAT Sub-Committee determine the application with a view to promoting the licensing objectives in the overall interests of the local community. They should give appropriate weight to:

- **The steps that are necessary to promote the licensing objectives,**
- **The police application for a review,**
- **The Guidance issued to local authorities under the Licensing Act 2003, and**
- **The Herefordshire Council Licensing Policy.**

Key Points Summary

- Application received from West Mercia Police on 15th March 2011.
- Two (2) public representations supporting the premises licence holder.

Further information on the subject of this report is available from
Fred Spriggs – Licensing Officer 01432 383542

Options

- 1 There are a number of options open to the committee:
- the modification of the conditions of the premises licence;
 - to exclude a licensable activity from the scope of the licence;
 - the removal of the designated premises supervisor from the licence;
 - the suspension of the licence for a period not exceeding 3 months; and
 - the revocation of the licence.
 - not to modify any of the conditions of the premises licence nor take any other action.

Reasons for Recommendations

- 2 Ensures compliance with the Licensing Act 2003.

Background Information

Applicant	Paul West – Chief Constable of the West Mercia Constabulary, c/o Police Station, Bath Street, Hereford.	
Premise Licence Holder	Punch Taverns PLC Jubilee House, Second Avenue, Burton upon Trent, Staffordshire, DE4 2WF	
Solicitor	TLT Solicitors	
Type of application:	Date received:	28 Days consultation
Review	15 March 2011	11 April 2011

- 3 The grounds for the review are:
The premises has been subject to two visits during a test purchase operation by Herefordshire Trading Standards and West Mercia Police. On both occasions sales of alcohol were made by a member of staff by a person under the age of 18.

These failures impact on the licensing objectives of the prevention of crime and disorder and the protection of children.

- 4 The information submitted to support the grounds stated:
Joint 'test purchasing operations' involving officers from Herefordshire Trading Standards and West Mercia Police took place in December 2010 and February 2011.

On 11 December 2010 the premises was subject to a visit and a sale of alcohol was made to a person under the age of 18 by a member of staff. At this time the member of staff was dealt

with by means of an £80 fixed penalty.

On Saturday 26 February 2011 the premises was subject to a further visit. Again, a sale was made of alcohol to a person under the age of 18 by a member of staff. This was the same person who made the sale in December 2010. On this occasion the member of staff was reported for the offence of sale of alcohol to children.

On both occasions no 'age verification checks' were made by the member of staff in order to establish that the person was old enough to purchase alcohol.

5 **Current Licence**

The current licence authorises the following licensable activities during the hours shown: -

An indoor sporting event

Monday-Sunday: 11:00 - 00:30

A performance of live music; Any playing of recorded music; Other regulated entertainment; Making music; Other entertainment facilities

Monday-Sunday: 11:00 - 23:30

Sale by retail of alcohol

Monday-Sunday: 11:00 - 23:30

Non Standard Timings

New Years Eve 11:00 until start of permitted hours on January 1st.

Seasonal variations: None

Key Considerations

- 6 The licensing authority must take into account any relevant representations made. Relevant representations are those that:
- relate to one or more of the licensing objectives;
 - have not been withdrawn; and
 - are made by the premises licence holder, a responsible authority or an interested party (who is not also a responsible authority).

Community Impact

- 7 There is likely to be little outcome on the Community.

Legal Implications

- 8 An appeal may be made within 21 days of the licence holder being notified of the licensing authority's decision to a magistrates' court. An appeal may be made by the premises licence holder, the chief officer of police and/or any other person who made relevant representations.
- 9 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal or until that appeal is disposed of.

Consultees

- 10 Responsible authorities and persons living within the vicinity or with a business interest within the vicinity of the premises.
- 11 The notice of review was displayed on the premises which invited representation. The notice was also displayed at the offices of the Licensing Authority at Bath Street.

Appendices

- 12
 - a. Application Form
 - b. Copies of Public Representations

Background Papers

Background papers are available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.

HEREFORDSHIRE COUNCIL LICENSING POLICY states;

18.3 Failed Test Purchases

Where a premises fails a test purchase then, other than in exceptional circumstances, the premises licence will be reviewed. During the course of any review the Licensing Authority will look at the cause of the failure. Where during the first review it is found that the training of staff at the premises is inadequate, the Licensing Authority may look at placing a condition on the licence in respect of staff training and will consider suspending the licence to allow sufficient time to enable staff to be trained. When a further test purchase is failed the Licensing Authority will consider revoking the licence in order to promote the licensing objective of the 'protection of children from harm'.

- 18.4 Other than in exceptional circumstances, in partnership with the Police and Trading Standards, persons who sell to under-age persons will normally be dealt with by means of a Fixed Penalty Notice unless that person is the holder of a personal licence.

- 18.5 Where that person holds a personal licence the Licensing Authority will normally look towards prosecuting that person through the Court for the offence. The court will be asked to consider either the suspension or revocation of the personal licence.

18.6 Premises Persistently Selling

In line with the existing legislation, the Licensing Authority or the Police will look at prosecuting those premises which persistently sell to under age persons. Persistently selling is defined by the legislation as 2 sales within a 3 month period.