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| <b>MEETING:</b>         | <b>REGULATORY SUB-COMMITTEE</b>   |
| <b>DATE:</b>            | <b>2 OCTOBER 2012</b>   |
| <b>TITLE OF REPORT:</b> | <b>REVIEW OF A PREMISES LICENCE 'SPREAD EAGLE, 2 KING STREET, HEREFORD, HR4 9BW' – LICENSING ACT 2003</b> |
| <b>PORTFOLIO AREA:</b>  | <b>HEALTH AND WELLBEING</b>   |

**CLASSIFICATION:** Open

### **Wards Affected**

Central

### **Purpose**

To consider an application for the review of a premises licence in respect of the 'Spread Eagle, 2 King Street, Hereford, HR4 9BW'.

### **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 Licensing Authority's 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 the Licensing Authority on 7<sup>th</sup> August 2012
- Two (2) Representations received (from the police and trading standards).

### **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.

## Reasons for Recommendations

2 Ensures compliance with the Licensing Act 2003.

## Background Information

|                                       |  |  |
|---------------------------------------|--|--|
| Applicant                             | <b>Herefordshire Council as the Licensing Authority represented by Mr F Spriggs</b>      |  |
| Premise Licence Holder                | <b>Enterprise Inns PLC<br/>3 Monks Path, Hall Road, Solihull, West Midlands, B90 4SJ</b> |  |
| Solicitor                             | <b>Richard Taylor – Gosschalks</b>   |  |
| Type of application:<br><b>Review</b> | Date received:<br><b>8<sup>th</sup> August 2012</b>                                      | 28 Days consultation<br><b>4<sup>th</sup> September 2012</b> |

3 The grounds for the review are:

*The premises is a public house situated on the edge of Hereford City.*

*The request for this review is based on the licensing objectives regarding the prevention of crime and disorder and the protection of children from harm.*

*The premise has been the subject the subject of a test purchase operation which it failed.*

4 The information submitted to support the grounds stated:

*During the evening of Friday 3<sup>rd</sup> August 2012 Herefordshire Council trading standards department and West Mercia Police carried out a test purchase operation at the premise.*

*A 14 year old male and a 15 year old female were sold 2 bottles of Bulmers original cider 4.5% vol.*

*No challenge was made in respect of age.*

*The current DPS has been at the premises since May 2011.*

*Herefordshire Council Licensing Policy states that any premises failing a test purchase will be*

*reviewed.*

## 5 **Current Licence**

The current licence authorises:  
Performance of a play; Other regulated entertainment  
Monday-Friday: 19:00 - 23:00  
Saturday-Sunday: 12:00 - 23:00

An exhibition of a film  
Monday-Friday: 09:00 - 00:30  
Saturday-Sunday: 09:00 - 02:30

A performance of live music  
Monday-Sunday: 14:00 - 22:30

Any playing of recorded music; Making music; Dancing  
Friday-Saturday: 23:30 - 02:30

Sale by retail of alcohol  
Monday-Wednesday and Sundays: 10:00 - 00:00  
Thursday: 10:00 - 01:00  
Friday-Saturday: 10:00 - 02:00

## **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. Copy of Police Representations
- c. Copy of Trading Standards Representation

## Background Papers

**Background papers are available for inspection in Meeting Room 22a, 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.