

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	25 NOVEMBER 2011
TITLE OF REPORT:	REVIEW OF A PREMISES LICENCE: BARGAIN BOOZE, 3 YAZOR ROAD, HEREFORD, HR4 0LZ
PORTFOLIO AREA:	ENVIRONMENTAL HEALTH & TRADING STANDARDS HEALTH & WELLBEING SERVICES

CLASSIFICATION: Open

Wards Affected

Three Elms

Purpose

To consider a review of a premises licence in respect of Bargain Booze, 3 Yazor Road, Hereford, HR4 0LZ.

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 trading standards 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 Herefordshire Council Trading Standards on 5th October 2011.
- One (1) representation received from a responsible authority (police)

Options

1 There are a number of options open to the committee:

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

- 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	Herefordshire Council Trading Standards, Bath Street, Hereford	
Premise Licence Holder	Mr Alan Hudson 44 Holme Lacy Road, Hereford, HR2 6BZ.	
Solicitor	N/A	
Type of application: Review	Date received: 5 October 2011	28 Days consultation 2 November 2011

3 The grounds for the review are:

The premise is principally an off licence situated on the outskirts of Hereford.

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 of a test purchase operation, which it failed.

4 The information submitted to support the grounds stated:

During the evening of Saturday 16 July, Herefordshire Council trading standards department and the West Mercia Constabulary carried out a test purchase operation at the premise.

Two(2) 16 year old females were served alcohol (2 litre bottle of Strongbow) without being challenged concerning their age.

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

5 **Current Licence**

The current licence authorises the sale by retail of alcohol (off premises only)

On weekdays, other than Christmas, 8am to 11 pm

On Sundays, other than Christmas Day, 10 am to 10.30 pm

On Christmas Day, 12 noon to 3 pm and 7 pm to 10.30 pm

On Good Friday, 8 am to 10.30 pm

Non standard timings: None

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 for a review – from trading standards
b. Representation from police

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.