

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

PREMISES	Somerfield (Co-op)
LICENCE HOLDER	Somerfield Stores Ltd
APPLICANT'S NAME	Herefordshire Council Trading Standards
APPLICATION TYPE	Review of Premises Licence
PANEL MEMBERS	Councillor JW Hope MBE (Chairman) Councillor CM Bartrum Councillor FM Norman
DATE OF MEETING	16 April 2012

Members of the Licensing Panel of the Council's Regulatory Committee considered the above application, full details of which appeared before them in their agenda and the background papers.

The review of the Premises Licence had been requested because the premises had recently failed a test purchase regarding the sale of alcohol to an underage person at the premises. This was the third failure and the premises licence had previously been reviewed in November 2008 and March 2009.

Prior to making their decision, the Members heard from Mr J Mooney, representing West Mercia Police, and Mr D Hough, the Principal Trading Standards Officer, together with Mr C Evans, 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, the application should be, and was determined as follows:-

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

1. a personal licence holder must be on the premises at all times it operates for the sale of alcohol;
2. all existing employees will attain the BIIAB Level 1 in Responsible Alcohol Retailing or the BIIAB Level 2 Award for Personal Licence Holders within three months of the condition appearing on licence. Any new starters must attain the BIIAB Level 1 in Responsible Alcohol Retailing or the BIIAB Level 2 Award for Personal Licence Holders within 28 days of commencing their employment. Failure to attain the requisite qualification within this timescale will require that member of staff to need authorisation from another store colleague for all Age Restricted product sales until they attain the requisite qualification. A copy of the certificate 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;

3. all new employees, for at least 28 days after commencing serving customers, will be prevented from directly selling Age Restricted products until authorisation is sought from another colleague. This will be incorporated irrespective of whether they have already passed the BIIAB Level 1 in Responsible Alcohol Retailing or the BIIAB Level 2 Award for Personal Licence Holders as required in Condition 2. This timescale to be increased if store management believe the new starter would benefit from additional exposure to Age Restricted product transactions;
4. all staff engaged in the sale of alcohol to be trained on age restricted products to the company policy and procedures as agreed with Herefordshire Trading Standards. Training is to be carried out within one month of this condition appearing on the licence. Retraining shall take place every three months for the following twelve months then twice yearly thereafter. Records of Training shall be kept centrally with details of when trained available at 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;
5. a member of the Store Management will review the Age Restricted Sales process on a weekly basis, checking the age verification and challenges data of each member of staff. Where the store management identifies any evidence that an employee is not applying the stores' Age Restricted Product policy then they shall, for at least 28 days, be prevented from directly selling Age Restricted products until authorisation is sought from another colleague. This timescale to be increased if store management believe the store colleague would benefit from additional exposure to Age Restricted product transactions. These colleagues are to be retrained in the stores' Age Restricted Product policy before being allowed to authorise the sale of Age Restricted products themselves. Hard copy records of the store process monitoring, any interviews with store colleagues as well as their subsequent re-training must be kept on the premise for a minimum of 26 weeks 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;
6. the premises shall operate a Challenge 25 Policy. Such policy shall be clearly displayed to all staff and customers via prominent, clear and legible signage (in not less than 32 font bold). Such signage shall be displayed at all entrances to the premises as well as at, at least one location behind any till area advertising the scheme operated. The policy shall be produced on demand of 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;
7. either a written register of refusals detailing a description of the people who have been unable to provide required identification to prove their age, or an electronic register detailing the perceived age, challenges made, and identification accepted or not accepted. Such records shall be kept for a period of 12 months 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.
8. CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition. Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale / supply of alcohol occurs. Equipment MUST be maintained in good working order, be correctly time and date stamped , recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand. The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format EITHER DISC or VHS 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 Recording

equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. On a daily basis the system must be checked and is compliant. In the event of any faults in the CCTV system appropriate actions taken are to be recorded. In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Police on contact number 0300 333 3000 immediately; and

9. All sales of alcohol must be agreed by another member of staff who is trained to the minimum level of BIIAB Level 1 in Responsible Alcohol retailing. Records of this must be kept in written records or in electronic form.

REASON

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.*