

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE – 8 SEPTEMBER 2009

Title of report	APPLICATION FOR REVIEW OF A PREMISES LICENCE
Contacts	<p>Councillor Alison Smith 01530 835668 alison.smith@nwleicestershire.gov.uk</p> <p>Commercial Services Manager 01530 454610 lee.mansfield@nwleicestershire.gov.uk</p> <p>Licensing Enforcement Officer 01530 454838 emma.mchugh@nwleicestershire.gov.uk</p>
Purpose of report	To determine an application for a review of a premises licence in respect of premises trading as Moira Arms and located at 2 High Street, Castle Donington, Derbyshire, DE74 2NS. This report outlines the application and also highlights the licensing objectives, the relevant parts of Government guidance and the pertinent sections of the Licensing Authority's Licensing Policy.
Strategic aims	Strong and Safer Communities
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant Corporate Action Team</p> <p>Risk Management</p> <p>Equalities Impact Assessment</p> <p>Human Rights</p>	<p>Implications arising from an appeal made to the Magistrates Court by anyone aggrieved by the decision of the Sub-Committee.</p> <p>Safer CAT</p> <p>The usual risks of cost involved of an appeal against the decision of the Committee. In any event and in order to mitigate these risks, the Committee should give clear reasons for its decisions and any such reasons would need to be substantiated in Court.</p> <p>Equality Impact Assessment to be undertaken during 2009/10.</p> <p>See the body of the report.</p>

Transformational Government	N/A
Consultees	Leicestershire Fire and Rescue Service, Trading Standards, Health and Safety, Environmental Protection, Planning and members of the public/local businesses by way of notice at the premises, on the Council's website and at the Council Offices, Coalville.
Background papers	Guidance issued under Section 182 of the Licensing Act 2003 - available for reference at www.culture.gov.uk and Statement of Licensing Policy -available for reference at www.nwleics.gov.uk/licensing Licensing Act 2003 available for reference at www.opsi.gov.uk
Recommendations	THAT THE SUB-COMMITTEE DETERMINE THE APPLICATION.

1. Background

- 1.1 The premises currently operate as a public house and are the holders of a premises licence. The premises licence permits the sale of alcohol for consumption on and off the premises from 11am to 12 midnight Sunday to Wednesday and from 11am to 1am Thursday to Sunday. The premises licence also permits live music, recorded music and the provision of facilities for entertainment of a similar description from 11am to 11.30pm Monday to Sunday. A copy of the premises licence is attached as appendix 1.
- 1.2 On 20th July, an application for a review of the premises licence was received from the Leicestershire Constabulary. A copy of the application and supporting evidence is attached as appendices 2 and 3. The review application relates to the prevention of crime and disorder and protection of children from harm licensing objectives and the grounds for review are as stated in the application form:
- Tina Lorraine Whiting has been the designated premises supervisor at this public house since 16th January 2007.
 - On the 30th November 2007, Police conducted a test purchase operation and a member of staff sold an alcoholic drink to the test purchaser. He was issued with a fixed penalty notice and a warning letter was sent to the DPS.
 - On the 14th March 2008, a further test purchased operation was conducted and a sale refused.
 - On the 13th June 2008, a further test purchase was conducted and a sale refused.
 - On the 14th June 2008 (next day), a further test purchase operation resulted in the sale of alcohol to a 15 year old boy. The seller was issued with an £80 fixed penalty notice ticket and DPS was interviewed. As a result of the interview and the comments of Sgt John O'Brien I wrote to the DPS on 16th July 2008.

- On the 13th December 2008, a further test purchase operation was conducted and a sale was refused.
- On the 13th June 2009, a further test purchase operation was conducted and a 15 year old test purchaser was sold half a pint of Carling lager. The seller was issued with a fixed penalty ticket and the DPS interviewed.

1.3 Leicestershire Constabulary recommend the suspension of the premises licence and the addition of conditions to the premises licence.

2.0 Representations

2.1 The Licensing Authority is responsible for advertising the review application by displaying prominently a notice at, on or near the premises to which the application related, on the Council's website and at the main offices of the Licensing Authority for not less than 28 consecutive days. The required notices were displayed at the premises, on the Council's website and in the reception area of the Council Offices, Coalville on 20th July 2009.

2.2 In respect of a review of a premises licence, the applicant is responsible for serving the application on the premises licence holder and each of the responsible authorities, namely, the Fire Authorities, Trading Standards Department and the District Council's Health and Safety, Environmental Protection and Planning Sections. Officers are satisfied that the applicant has served all parties as required.

2.3 No representations have been received from any of the remaining responsible authorities.

2.4 Interested parties in the vicinity of the premises are able to make representations within 28 days of the application to the Licensing Authority. No representations have been received from residents in the vicinity of the premises.

3.0 Statutory Guidance

3.1 In making its decision, the Sub-Committee is obliged to have regard to Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. All Licensing Committee members have been provided with a full copy of the guidance document. Officers consider that paragraphs 2.1 to 2.18, 2.41 to 2.51 and 11.15 to 11.27 may have a bearing upon the application.

4.0 Statement of Licensing Policy

4.1 The Sub-Committee is also obliged to have regard to its own Statement of Licensing Policy. Officers consider that paragraphs 7.1 to 7.2, 10.1 to 10.5, 10.8 to 10.9 and 11.1 to 11.3 may have a bearing upon the application.

5.0 Observations

- 5.1 The Committee is obliged to determine this application with a view to promoting the licensing objectives, which are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.
- 5.2 The Committee may take such of the following steps, if any, as it considers necessary for the promotion of the licensing objectives:
- a) Modify the conditions of the licence;
 - b) Exclude a licensable activity from the scope of the licence;
 - c) Remove the designated premises supervisor;
 - d) Suspend the licence for a period not exceeding three months;
 - e) Revoke the licence.
- 5.3 Any determination made by the Sub-Committee shall not come into effect until the end of the period given for appealing against the decision or if the decision is appealed against, until the appeal is disposed of.
- 5.4 There is a right of appeal to the Magistrates Court against the decision of the Sub-Committee by the applicant, premises licence holder and persons who made relevant representations.

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**Premises licence number**

NWL20182

Part 1 – Premises details**Postal address of premises, or if none, ordnance survey map reference or description**

Moir Arms, 2 High Street, Castle Donington

Post town

Derbyshire

Telephone number**Post code**

DE74 2PP

Where the licence is time limited the dates

Licensable activities authorised by the licence

1. The sale by retail of alcohol for consumption on and off the premises.
2. Performance of live music – indoors.
3. Playing of recorded music – indoors.
4. Provision of facilities for entertainment of a similar description to making music or dancing indoors.

The time the licence authorises the carrying out of licensable activities

The sale by retail of alcohol for consumption on and off the premises:

Sunday to Wednesday – 11.00am to 12midnight.

Thursday to Saturday – 11.00am to 01.00am.

From the end of permitted hours on New Year's Eve to the start of permitted hours New Year's Day.

Performance of live music:

Monday to Sunday – 11.00am to 11.30pm.

From the end of permitted hours on New Year's Eve to the start of permitted hours New Year's Day.

Recorded music:

Monday to Sunday – 11.00am to 11.30pm.

From the end of permitted hours on New Year's Eve to the start of permitted hours New Year's Day.

Provision of facilities for entertainment of a similar description:

Monday to Sunday – 11.00am to 11.30pm.

From the end of permitted hours on New Year's Eve to the start of permitted hours New Year's Day.

The opening hours of the premises

Sunday to Wednesday – 11.00am to 12.30am.

Thursday to Saturday – 11.00am to 01.30am.

From the end of permitted hours on New Year's Eve to the start of permitted hours New Year's Day.

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

The sale by retail of alcohol for consumption on and off the premises.

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

Punch Taverns Plc
Jubilee House
Second Avenue
Burton upon Trent
Staffordshire
DE14 2WF

Registered number of holder, for example company number, charity number (where applicable)

03752645

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Tina Lorraine Whiting
Moirs Arms
Castle Donington
Derbyshire
DE74 2PP

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal Licence Number of Designated Premises Supervisor: PSL0518

Issuing authority: Erewash Borough Council

Annex 1 – Mandatory conditions

1. No supply of alcohol may be made under the premises licence;
 - a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol must be made or authorised by a person who holds a personal licence.

Annex 2 – Conditions consistent with the operating schedule

1. The premises shall be well illuminated externally.
2. All toilets shall be inspected regularly by staff and management.
3. CCTV shall be installed to cover all the internal areas of the premises.
4. Management shall closely monitor the behaviour of customers at all times.
5. Non-alcoholic beverages shall be made available for consumption at the premises.
6. The licensee or nominated representative for the premises shall be a member of the Castle Donington Pubwatch scheme so long as one exists.
7. Adequate emergency lighting and fire fighting equipment shall be provided and maintained at the premises.
8. The fire alarm system shall be tested periodically by a competent person to ensure that it is in proper working order.
9. The licensee will ensure that:
 - a) adequate and appropriate supply of first aid equipment and materials are available at the premises, and
 - b) a suitably trained and qualified first aider is on duty when the public are present.
10. Every member of staff shall receive instruction and training as appropriate to their position in respect of disability discrimination.
11. The licensee shall make available to customers information regarding a licensed taxi service.
12. The management shall undertake regular ad hoc noise checks to minimise public nuisance.
13. Customer departure shall be managed in order to assist in noise limitation.
14. No unaccompanied persons under 18 years of age shall be permitted into the licensed premise.
15. The AWP machines shall be positioned so that they are in full view and can be managed by the bar servery.
16. Non-alcoholic drinks in plastic bottles shall be available for children.
17. A lobbied entrance/exit shall be in place and maintained to assist in retaining sound levels.
18. Live music may only be provided by no more than two performers.

Annex 3 – Conditions attached after a hearing by the licensing authority

1. No admission to the premises after 2300 hours.
2. No regulated entertainment shall be provided after 2330 hours.
3. All doors and windows to close and remain closed at 2300 hours.
4. No external area shall be used for licensable activities or the consumption of alcohol after 2300 hours.
5. From 2100 hours, all external areas to be inspected at least every 30 minutes to ensure compliance with relevant legislation and a record of the inspections to be maintained at the premises to be retained at all times.
6. Appropriate notices shall be displayed at exits from the premises to encourage patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

Annex 4 - Plans

**Application for the review of a premises licence or club
premises certificate under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Sean Moore Ps567

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

The Moira Arms,
2 High Street,
Castle Donington,

Post town Derby

Post code (if known) DE74 2NS

Name of premises licence holder or club holding club premises certificate (if known)

Punch Taverns PLC

Number of premises licence or club premises certificate (if known)

NWL20182

Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)

a) a person living in the vicinity of the premises

b) a body representing persons living in the vicinity of the premises

c) a person involved in business in the vicinity of the premises

d) a body representing persons involved in business in the vicinity of the premises

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address PS567 Sean Moore, Leicestershire Constabulary Licensing Department, Mansfield House, 74 Belgrave Gate, Leicester LE1 3GG
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

1. Tina Lorraine Whiting has been the designated premises supervisor at this public house since 16th January 2007.
2. On the 30th November 2007 police conducted a test purchase operation and a member of staff sold an alcoholic drink to the test purchaser. He was issued with a fixed penalty ticket and a warning letter was sent to the DPS (See attached).
3. On the 14th March 2008 a further test purchase operation was conducted and a sale refused.
4. On the 13th June 2008 a further test purchase was conducted and a sale refused.
5. On the 14th June 2008 (next day) a further test purchase operation resulted in the sale of alcohol to a 15 year old boy. The seller was issued with an £80 fixed penalty ticket and the DPS was interviewed. As a result of that interview and the comments of Sgt John O'Brien I wrote to the DPS on the 16th July 2008. I attach a copy of that correspondence.
6. On the 13th December 2008 a further test purchase operation was conducted and a sale refused.
7. On the 13th June 2009 a further test purchase operation was conducted and a 15 year old test purchaser was sold half a pint of Carling lager. The seller was issued with a fixed penalty ticket and the DPS interviewed. I attach a copy of that interview.
8. Whilst not wishing to fetter the Committee's discretion we ask that the following

steps be considered in order to address this problem:

(a) The premises licence be suspended as described in para 11.21 of the Guidance issued under Section 182 of the Act. (See R v Worksop Magistrates' Court report attached.)

(b) A condition that the licensee will ensure that CCTV is installed following advice from the Leicestershire Constabulary Crime Reduction Officer and maintained in accordance with the Information Commissioner's CCTV Code of Practice be added to the licence. (Where CCTV is already in use this will amount to a survey and recommendations from the Crime Reduction Officer. This can prevent as well as detect crime.)

(c) A condition be added that the licensee will adopt the Challenge 21 policy and provide adequate, documented training for staff before they are allowed to serve alcohol. This training will be repeated every three months, in order to retain focus, and records of that training will be provided to Council licensing officers and police on request.

(d) A condition be added that the current Designated Premises Supervisor will obtain a recognised qualification for Designated Premises Supervisors. These courses focus on the role and responsibilities of the DPS above and beyond the syllabus for the level 2 National Certificate for Personal Licence Holders. The Licence holder must provide the licensing authority with sight of the certificate within the next 3 months.

Please provide as much information as possible to support the application
(please read guidance note 2)

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

2 1 0 4 2 0 0 6

If you have made representations before relating to this premises please state what they were and when you made them

They were in relation to a previous management team and not relevant to this application.

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature

Sean Moore P3567

Date

1st July 2009

Capacity Licensing Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

LEICESTERSHIRE CONSTABULARY APPENDIX 3



Date: 30 Nov 2007

Name: Tim Winstanley

Premises: Marina Arms, Castle Donington

On Friday 30th November 2007 an Under Age Test Purchase Operation was conducted in Off-License premises in North West Leicestershire. This was conducted by the Leicestershire Police. As part of the operation your premises was visited which resulted in a young person being served with an alcoholic drink. As I am sure you are aware you have a responsibility to ensure staff are suitably trained to prevent them serving under age people and are ultimately responsible for the premises. A DPS is a person who is both 'fit and proper' and the holder of this position should not take the responsibility lightly. On this occasion the Licensing Sergeant PS125 John O'Brien has interviewed you in order that a decision can be made with regards to how the incident may be dealt with in relation to yourself. The standard we apply is whether you have shown 'due diligence' in preventing the sale of alcohol by your staff to young people. You have been given advice with regards to training staff and the keeping of records with regards to this. You have been advised regarding the checking of Identity/ age of people who appear under 21 and the displaying of signage to this effect. All of this advice has been readily accepted by yourself and you have assured that it will be implemented, where possible, with immediate effect.

The decision I have taken on this occasion is that you should receive a written warning. This warning is issued on a once only basis. This will be kept on record by the Police and will be taken into account on any subsequent occasions licensing offences are committed on the premises.

PS125 O'Brien is committed to working with Licence holders to ensure 'Good Practice' and to make your area a safe place to visit. The essence of this is good communication between all parties and I would ask that this continue. Do not hesitate to contact me should you require any further advice.

Inspector Brown
North West Leicestershire
Local Policing Unit Commander.

I acknowledge receipt of this
of this letter.

FAO:

**P/SGT Sean Moore.
Licensing Sgt.
Mansfield House.**

Sean,

Enclosed is documentation for your consideration as to whether the licence should be reviewed in relation to The Moria Arms Public House 2, Bondgate, Castle Donington. As you can see this is the second sale in the last 12 months. Before interviewing the DPS I was of the opinion the licence should be reviewed. Now I have interviewed the DPS and after discussing the circumstances of the under age sale with Insp. Brown and Catherine from NWLDC due to the unfortunate set of circumstances the DPS found herself in, Insp. Brown and Catherine agree she is given a no nonsense final written warning and that a review of her licence is a bit harsh. The DPS is due to sign a new tenancy contract on 4/7/08 but is obviously reluctant until a decision is made on this matter as she fears she could be removed as DPS should a review take place.

On the day in question the DPS as a result of going to the local pharmacy was advised to go to hospital immediately due to an injury she had sustained to her hand which was infected and swollen. The DPS was the only one to be on duty on that afternoon and as a result of having some customers in the bar for the short time before other staff started duty she got a friend by the name of Kelly Vintis the person who sold to the t/p to cover the bar. The DPS believed Kelly was a personal licence holder but after speaking to Kelly this was not the case. The DPS on seeing the photographs of the t/p agrees she should not of been served nor would she of got served if she had of been on duty only for going to hospital. The DPS refused service to the t/p the previous day. I have checked the story the DPS has given and confirm she was at hospital.

Also to take into consideration is the problems this premises had prior to the current DPS's appointment where it would be fair to say it was one of the worst run premises in Leicestershire with numerous incidents on Innwebb. The present DPS has some what turned it around and it causes the police and local authorities little concern.

The DPS will be not advised but told by me if she has not got the appropriate staff to work in the premises it must be closed no matter what.

As per the conversation we have had could you please from your department send a final written warning to her.

History.

On 30/11/07 member of staff served t/p an alcoholic beverage and was issued with a FPN. DPS given a written warning.

No Sale on 14/3/07. 08

No sale on 13/6/08.

On 14/6/08 a 15 year old t/p enters premises and is served half a pint of carling and alcoholic beverage by a member of staff. Member of staff who served issued with a FPN. DPS will be i/v'd on 20/6/08. Here she will be informed that a report will be submitted which may result in her licence being reviewed.

Thanks, John.

Interview Notes with DPS

Name: Tina Lorraine Whiting.

Date of birth: 23/7/57

Address: The Moira Arms, 2, Bondgate, Castle Donington. DE74 2NS.

1. I am investigating an incident which occurred on 14th June 2008 where a person entered the The Moira Arms Public House which is a premises subject to the Licensing Act 2003 and was sold a half pint of Carling, an alcoholic based drink. This person was 15 years of age at the time of the sale and therefore under the legal age of 18 to be sold alcohol. Are you aware of the incident.

R "Yes"

2. How are you aware of the incident.

R "Kelly told me"

3. What is your job position at the Moira Arms.

R "The DPS / landlady".

4. How long have you been a DPS.

R "January 2007"

5. What is the role of a DPS.

R "General day to day running of the premises and supervision of staff"

6. Are you a personal licence holder?

R "Yes"

7. Can you tell me your licence number and which authority you are licensed with?



R "NOPSLO518 issued by Erewash Borough Council".

8. How long have you been a personal licence holder?

R "28th June 2006"

9. Have you taken a personal licence holders course or DPS course?

R "Yes a personal licence course not a DPS course"

10. How long have you worked in the licensing Trade?

R "On and off this last thirty years"

11. Do you have any other employment?

R "No"

12. Who opens and closes the premises?

R "Myself"

13. Who orders the stock for the premises?

R "Myself"

14. Who employs staff at the premises?

R "Myself"

15. How many staff have personal licence?

R "None"

16. How many bar staff are employed on a Friday and Saturday?

R "12noon - 3pm it will be my husband and myself,, 3pm - 7pm 1 x person employed, 7pm - 1am 2 x persons employed."

17. Who provides the training for the staff?

R "Myself"

Mc Whiting

18. What training do you give to the staff regarding under age sales?

R "Verbal training only especially after the last test purchase, constantly reminding staff on a daily bases to check ID keeping a running log of refusals"

19. Are the details of the training given, written down anywhere?

R "No but after this it will be documented and signed by each member of staff"

20. Who trained Kelly Vintis with regards to under age sales?

R " She was not trained by myself. Due to an accident I had to go to hospital. I authorised Kelly to cover for me as a friend as I believed she had a personal licence"

21. Do you consider the training given to the staff at your premises regarding under age sales adequate.

R "Yes I do"

22. Were you there all day on this occasion – if not who was in charge of the premises when you left?

R "No as I said I had an accident causing an injury resulting in going to hospital at the last minute"

23. Do you have a record of staff working behind the bar on the day of this incident?

R "No Kelly was a last resort to cover the bar she was not a member of staff just a friend helping out"

24. I am showing you exhibit JOB2. which are photographs taken of the volunteer test purchaser prior to the operation starting, how old do you think he looks?

R "About 17 years of age"

25. Do you train staff regarding the Challenge 21 policy?

A handwritten signature in black ink, appearing to be 'M. C. [unclear]', written in a cursive style.

R "Yes, also having posters displayed in the bar"

26. Were there any door staff on duty?

R "I never use door staff"

27. Can you think of a reason why the volunteer was sold alcohol?

R "I have no idea it should not have happened"

28. Are you in day to day control of running the premises?

R "Most times"

29. On average how often and at what times are you on the premises

R "Most times"

30. Have you authorised staff to sell alcohol?

R "Yes"

31. Is this written down anywhere and signed by your staff?

R "Yes"

32. Is there anything you wish to add to this interview?

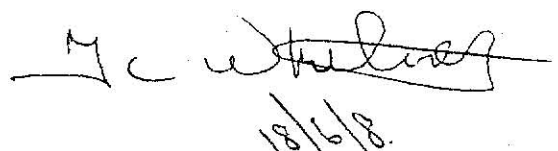
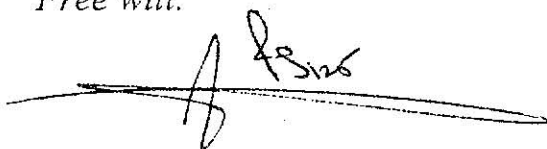
R "I was to be behind the bar and only for the accident the person would not of got served. I am sorry"

33. I am reporting you for the offence of selling alcohol to a person under 18 years of age, which is contrary to Section 146 (1) and 7 of Licensing Act 2003.

R "There is nothing more to say other than an unfortunate set of circumstances has put me in this position"



I have read the above statement and I have been able to correct, alter add anything I wish. This statement is true. I have made it of my own Free will.



18/6/8.

110 11-2
CID 15692
Letter re TP's

Please ask for Sergeant 567 Sean Moore, Licensing Department.

16 July 2008

Tina Lorraine Whiting,
The Moira Arms,
2 Bondgate,
Castle Donington,
Derby DE74 2NS

Dear Madam,

Licensing Act 2003 – Under age sales at the Moira Arms.

I write in my capacity as Licensing Officer for the Leicestershire Constabulary.

I have received a report from Sgt 125 O'Brien of Coalville police station regarding failed test purchase operations at the above premises on the 30th November 2007 and the 14th June 2008.

I understand you are the tenant and designated premises supervisor of this public house whilst the premises licence is held by Punch Taverns PLC.

It is our policy to seek the review of a premises licence where two underage test purchases have been failed within 12 months.

Sgt O'Brien has consulted with licensing officers at North West Leicestershire District Council and his commanding officer Inspector Chris Brown.

It has been agreed that the particular circumstances of the second sale, where you were unwell and left a person you believed to be qualified, in charge, combined with the huge improvement in the way the premises have been run since you took over, make it appropriate to deviate from the above policy in this instance.

That said it is clear that the licensing objectives, particularly that of protecting children from harm, have been undermined by these events.

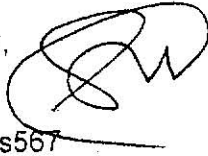
The purpose of this letter is to make it clear that any further incident, which indicates a failure on your part to promote the objectives, will result in our making an application to review the premises licence.

I recommend you consider your position in relation to staff training in particular with regards to the Challenge 21 policy. I have included a pack concerning this.

A copy of this letter will be retained on your licensing file and may be referred to in the case of any further problems.

Please do not hesitate to contact me if you have any queries regarding this or any other licensing matters.

Yours faithfully,



Sean Moore Ps567

Copies to:

Licensing Department,
North West Leicestershire
District Council
Council Offices
Coalville
LEICS LE67 3FJ

Punch Taverns PLC.
Jubilee House,
Second Avenue,
Centrum One Hundred,
Burton upon Trent,
Staffs DE14 2WF

Inspector Chris Brown and Sergeant John O'Brien
Coalville police station

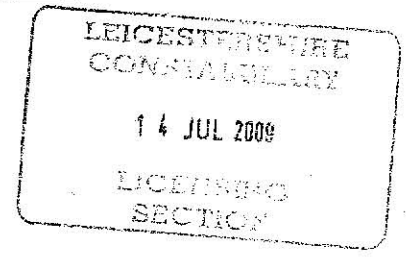


Leicestershire Constabulary

The Licensing Section
Mansfield House
74 Belgrave Gate
Leicester
LE1 3GG

Tel: 0116 222 2222

Licensing Act 2003 - Test Purchase - Interview
Notes with DPS - Not Under Caution.



Name: Tina Leanne Whiting
Date of birth: 23/7/57
Address: Moss Acre
Huss St
Castle Donington

1. I am investigating an incident which occurred on 13 Jan 2009 where a person entered the Moss Acre Public House which is a premise subject to the Licensing Act 2003 and was sold 12.5% beer, an alcoholic based drink. This person was 15 years old at the time of the sale and therefore under the legal age of 18 to be sold alcohol. Are you aware of the incident?

R YES

2. How are you aware of the incident?

R I WAS OUTSIDE

3. Are you the DPS?

R YES

4. Who is the premises licence holder?

R TAM

5. What involvement do they have regarding licensing issues at the premises?

R DEPT WITH EVERYTHING

6. Are you in day to day control of running the premises?

R YES

7. On average how often and at what times are you on the premises?

R Every Day - Wednesday Night I Have off

16. Does the business have a written training procedure in relation to under age sales? If so can I see a copy?

R... No... in fact... I believe... one to see...
...the way... as I know... one... Steve...

17. What records do you have that show the initial training and any refreshers for the seller?

R... Jim A. Letter signed 20/3/09

18. Did you authorise him/her to sell alcohol on the day of the test purchase?

R... He wasn't present

19. Do you train staff regarding the Challenge 21 policy?

R... Yes

20. Do you consider the training given to the staff at your premises regarding under age sales adequate?

R... Yes

21. Do you have record of staff working at the time of this incident?

R... No

22. Were there any door staff on duty?

R... No

23. Can you think of a reason why the volunteer was sold alcohol?

R... Steve... not... By me - James...
...had... in... - and I asked...
...Steve... to help out which he did...
...he has... a... before.

24. Is there anything you wish to add to this interview?

R. I'm... July 1st... Haverhill... If it was
been by... Royal... of...
... Haverhill...
... for... ID.

Time, date and place of interview:

1.7.30 30/6/09... Haverhill

Rank, name and number of Officer conducting:

P. R. ...

A report will be submitted to our licensing department. This may lead to an application to review the premises licence.

The above is a true record of our interview:

Name and signature of DPS:

.....

Questionnaire prepared by the Leicestershire Constabulary Licensing Department 20th June 2008. Extension 4330.



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The WLR Daily

LICENSING — Licensed premises — Sale of alcohol to person under 18 — Review of licence — Sales of alcohol in shop to 14-year-olds — Licensing authority's decision to suspend licence — Magistrates' court setting aside and substituting additional licence conditions — Whether licensing authority to take steps in interests of wider community where licensed premises used for criminal purposes — Whether having punitive or deterrent function — Whether magistrates' court failing to follow guidance issued under statute — Licensing Act 2003, ss52, 152

R (Bassetlaw District Council) v Worksop Magistrates' Court; [2008] WLR (D) 350

QBD: Slade J.; 7 November 2008

On the determination under s 52 Licensing Act 2003 of an application for review of a premises licence in circumstances involving criminal conduct connected with the licensed premises, consideration must be given to what was necessary to promote the objective of crime prevention, and to the needs of the wider community, and not be limited to guidance and remedial action and to the needs of the licence-holders.

Slade J so held when granting the claimant, Bassetlaw District Council, judicial review of a decision of Worksop Magistrates' Court, on 24 July 2007 to allow an appeal by licensees, Steven Glyn Jones and Rachel Catherine Jones, against a decision by the council's licensing committee on 26 April 2007 to suspend for four weeks their licence to sell alcohol at their business premises, a convenience store.

SLADE J said that unlawful sales of alcohol had been made to two 14-year-old girls who had been sent by the Trading Standards Office to make test purchases. The girls had been served by young cashiers. The district judge had overturned the decision of the licensing authority that the shop proprietors' licence should be suspended for four weeks and had substituted the addition of six more conditions to the licence. The licensing authority challenged the district judge's decision on several grounds, some relating to the construction of provisions of the Licensing Act 2003 and the guidance issued by the Secretary of State under s 18C of that Act. The district judge had failed to bear in mind that, where premises had been used for criminal purposes, the licensing authority had a duty to take steps in the interests of the wider community. The district judge had considered that the function of both the licensing authority and, on appeal, the magistrates' court was not punitive but remedial. It was clear from his decision that the district judge had considered only the provisions in the guidance which were dealing with situations not involving crime. Where, as here, crime was involved, wider considerations came into play, including the prevention of crime, and, if not punishment, at least deterrence. Departure from the guidance was permissible, but the district judge had failed to identify why, and in what respects, he had departed from the guidance, and that too was an error of law.

Appearances: James Curke (Solicitor, Bassetlaw District Council, Bassetlaw) for the claimant.

Reported by: Philip Ridd, solicitor