

**LICENSING COMMITTEE (HEARING) – 25 NOVEMBER 2009**

**APPLICATION FOR A REVIEW OF THE PREMISES LICENCE FOR THE WHEATSHEAF INN, MARSH GREEN, EDENBRIDGE, KENT. TN8 5QL FROM KENT COUNTY COUNCIL TRADING STANDARDS, PO BOX 286, WEST MALLING, KENT. ME19 4HW UNDER THE LICENSING ACT 2003**

**APPLICATION REFERENCE NO: 09/00578/REVIEW**

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Report of the:	Community and Planning Services Director
Status:	For Decision
Portfolio Holder	Cllr. Mrs Bracken
Head of Service	Head of Environment & Operational Services – Mr. Richard Wilson

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**Recommendation:** Members' instructions are requested.

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**Background**

- 1 The procedure for Hearings of Sub-Committees of the Licensing Committee established in accordance with Section 9 of the Licensing Act 2003 is attached at Appendix A.
- 2 The application is made by Mr Richard Strawson, Area Manager, Kent County Council Trading Standards, PO Box 286, West Malling, Kent. ME19 4HW for a review of the premises licence for The Wheatsheaf Inn, Marsh Green, Edenbridge, Kent. TN8 5QL on the grounds of the licensing objective of Protection of Children from Harm.

**The Grounds for Review are:**

- 3 The Wheatsheaf Inn falls within one of the pilot areas of the Kent Community Alcohol Partnership (KCAP). As part of this partnership, officers from Kent Trading Standards have been working with all the shops and licensed premises in Edenbridge to reduce incidents of young people being able to obtain alcohol.
- 4 One method by which this is achieved is through regular contact between Trading Standards Officers and the premises to provide and promote best practice advice and where applicable find out where the premises experience problems and attempt to work together to resolve these.

- 5 In order to assess if the 'Challenge 25' advice was being followed a test purchase involving a 20 year old was carried out on 30th June 2009 to see if the volunteer would be asked for ID. On this occasion a pint of lager was sold without question and was followed up by an advisory visit to Mr Foster on 8th July 2009.
- 6 This exercise was repeated on 10th July 2009, this time with a 19 year old test purchaser. On this occasion a female behind the bar initially asked the volunteer for ID, but when told she had none the reply came that she could still be served so long as the volunteer didn't work for Trading Standards. This exercise was again followed up with an advisory visit on 17th July 2009.
- 7 A training event was arranged by Trading Standards for those premises that had failed the second 'Challenge 25' test purchase. All premises were advised that attendance of the training would mean a formal test purchase would be avoided. The Wheatsheaf Inn was one of three premises not to attend the training and therefore a formal test purchase was carried out on 27th August 2009.
- 8 Two Trading Standards Officers were in the pub and witnessed a member of staff sell alcohol (two vodka and cokes) to a 16 year old volunteer. No questions were asked as to her age or if she had any identification. When questioned after the event by Trading Standards Officers the seller claimed to believe that the volunteer was 26 years old. The seller was not a personal licence holder.
- 9 There were no posters or other means to promote a Challenge 25 policy any where within the pub. Following the sale the Designated Premises Supervisor, Neil Foster, was asked if a refusals book was in operation, however there was not one. Mr Foster later attended an interview at the offices of Trading Standards where he maintained looking at the photograph of the volunteer that he believed she could be approximately 26 years old.
- 10 It is evident from these exercises that best practice is being disregarded at The Wheatsheaf Inn. As a result of this, either due to a lack of regard for the law or staff members being a very poor judge of age, it is quite possible that underage persons are able to obtain alcohol at this premise.
- 11 It is therefore requested by this department that certain conditions be added to the premises licence in order to assist with the prevention of the sale of alcohol to persons under the age of 18 in the future:
  1. Mr Foster (or another person holding a Personal Licence) should at all times be in the bar area to personally supervise age restricted sales. If no personal license holder is available to personally oversee a sale of alcohol then a sale cannot be made.

**Item No. 3**

2. A Challenge 25 policy, where all potential purchasers believed to appear to be under 25 should produce acceptable proof of age, should be publicised in the pub with use of sufficient notices for all potential purchasers to be aware of the policy and this policy should be adhered to in all instances
  3. A refusals register is to be completed every time a refusal is made to someone because they appear under 25 in a format agreed by Kent Trading Standards.
  4. The refusals register should be checked and reviewed weekly by the Designated Premises Supervisor and a signature applied to the book to verify this.
  5. There should be a written training procedure proportionate to the size of the business and number of staff with signatures gained from each member of staff to confirm they have been trained in relation to sales of age restricted goods. This training should include (but not be limited to):
    - making all staff fully aware of a Challenge 25 policy
    - training all staff on the use of a refusals register as described in point 3
  6. Forms of identification which are to be acceptable as "proof of age" must be limited to a passport, full driving licence (with photo - not paper copy or provisional) or "Pass approved" proof of age card.
- 12 By adopting these proposals it is expected that the sale of age restricted products to minors will be at best eradicated or at the very least kept to an absolute minimum

**Representations received from statutory consultees:**

Fire Safety	<b>NO ADVERSE COMMENTS</b>
Trading Standards	<b>SEE ABOVE STATEMENTS</b>
Social Service	<b>NO ADVERSE COMMENTS</b>
Police	<b>NO ADVERSE COMMENTS</b>
Commercial	<b>NO OBJECTIONS</b>
Environmental Protection	<b>NO ADVERSE COMMENTS</b>

Development Control	<b>NO ADVERSE COMMENTS</b>
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**Representations received from interested parties:**

13 None received.

**Conclusions**

14 Without prejudice, the Officer would like to draw to Members attention issues that they may wish to consider:

15 Mandatory conditions – the following conditions will be added to the premises licence when it is issued.

**MC1 - The supply of alcohol**

16 Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:-

17 No supply of alcohol may be made under the premises licence -

(a) at a time where 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.

18 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

19 The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy. Where the decision departs from the Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and such departure must be supported by clear and cogent reasons.

20 The relevant section of the Guidance issued under section 182 of The Licensing Act 2003 is Chapter 11.

**Human Rights**

21 In considering this Notice it is necessary to consider the rights of the premises user. The hearing procedure has been formulated to ensure a fair hearing for all parties.

**Legal**

22 Under the Licensing Act 2003 the **Licensing Authority** has a duty to exercise licensing control in respect of premises licences.

**Risk Assessment Statement**

23 This Hearing is regulated by The Licensing Act 2003 (Hearings) Regulations 2005 No. 44.

24 The decision of this Hearing will be encompassed within the issued premises licence, and the licence will take effect on the 25 November 2009 subject to any appeal to a Magistrates Court or higher Court.

**Sources of Information:** <http://www.culture.gov.uk/alcohol> and  
entertainment

**Contact Officer(s):** Mrs. Claire Perry Ext. 7325

Mrs. Leeann Leeds Ext. 7270

**KRISTEN PATERSON  
COMMUNITY AND PLANNING SERVICES DIRECTOR**

