

Central Bedfordshire  
Council  
Priory House  
Monks Walk  
Chicksands,  
Shefford SG17 5TQ



**please ask for** Martha Clampitt  
**direct line** 0300 300 4032  
**date** 21 October 2010

## NOTICE OF MEETING

### LICENSING SUB COMMITTEE

Date & Time

**Tuesday, 9 November 2010 at 09.00 a.m.**

Venue at

**Council Chamber Council Chamber, Priory House, Monks  
Walk, Shefford**

Richard Carr  
**Chief Executive**

To: The Chairman and Members of the LICENSING SUB COMMITTEE:

Cllrs D Bowater, T Green and A A J Rogers

[Named Substitutes: Cllrs L Birt, I Dalgarno, A Fahn, M Gibson, K Janes,  
H J Lockey, Ms J Nunn, G Summerfield and P F Vickers

**(Bold text indicates substitute Members who will act as Full Members on  
this Sub Committee on this occasion)**

All other Members of the Council - on request

**MEMBERS OF THE PRESS AND PUBLIC ARE WELCOME TO ATTEND THIS  
MEETING**

# AGENDA

1. **WELCOME**

2. **Apologies for Absence**

Apologies for absence and notification of substitute members.

3. **Members' Interests**

To receive from Members any declarations and the nature in relation to:-

(a) personal interests in any agenda item

(b) personal and prejudicial interests in any agenda item

## Information & Reports

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## **Procedure for the hearing of applications The Licensing Act 2003**

**The Licensing Act 2003 (Hearings) Regulations 2005**

**Public Protection  
Central Bedfordshire Council  
Priory House  
Monks Walk  
Chicksands  
Shefford  
SG17 5TQ**

**0300 300 8000**

**Licensing Sub-Committee Procedure for  
Determining applications under the Licensing Act 2003**

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**Licensing Sub-Committee Checklist**

## **1. Introduction**

- 1.1. The Licensing Act 2003 has placed local authorities at the centre of the decision making process for regulating the sale and supply of alcohol, provision of regulated entertainment and late night refreshment.
- 1.2. This document and the procedures detailed herein are based upon the guidance issued by the Local Authority Co-ordinators of Regulatory Services and with regards to the provisions of:
  - the Licensing Act 2003;
  - the Guidance issued by the Secretary of State for Culture, Media and Sport on 7 July 2004 under section 182 of the Licensing Act 2003; and
  - The Licensing Act 2003 (Hearings) Regulations 2005 (as amended).
- 1.3. This guidance is intended for all concerned in any way whatsoever with a hearing before a licensing panel (Licensing Sub-committee, the Licensing Committee or Council, as may be the case) in relation to the determination of applications under the Licensing Act 2003.

## **2. General Principles**

- 2.1. All Members sitting on the determination of an application will always:
  - promote the right of all parties to have a fair hearing;
  - only have regard to such of the four licensing objectives that are subject to a relevant representation, namely:
    - the prevention of crime and disorder;
    - public safety;
    - the prevention of public nuisance; and
    - the protection of children from harm;
  - have regard to the Licensing Act 2003 and any relevant secondary legislation;
  - have regard to the Council's Statement of Licensing Policy;
  - have regard to the Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003;
  - treat each application on its own merits; and
  - undertake its decision-making responsibilities honestly and fairly, in an open, transparent and accountable way.

## **PRE-HEARING**

### **3. Licensing Panels**

- 3.1. Generally, hearings will take place before a Licensing Sub-committee consisting of three Members of the Licensing Committee, although, to avoid unnecessary adjournments, a fourth Member may attend as a substitute Member.
- 3.2. If, for any reason whatsoever, it is not possible to have a matter determined by a Licensing Sub-Committee, the matter would be heard by the Licensing Committee. A Licensing Committee must consist of between ten and fifteen Members and at least one half of those Members must attend for a hearing to proceed before the Licensing Committee.
- 3.3. In the highly unlikely event of it not being possible, for any reason whatsoever, to have a matter determined by either a Licensing Sub-committee or the Licensing Committee, the matter would be heard by Council.

### **4. Timescales for Convening a Hearing**

- 4.1. Most hearings under the Licensing Act 2003 must normally take place within 20 working days from the last date in which representations can be made. There are exceptions to this rule.
- 4.2. Exceptions:
  - 4.2.1. A hearing must take place within 10 working days of the Authority receiving notification of a review of the premises following a closure order;
  - 4.2.2. A hearing must take place within 7 working days from the day after the end of the period within which the police can object to a temporary event notice;
  - 4.2.3. A hearing must take place within 5 working days beginning the day after the end of the last day for the police to object to an interim authority notice.
- 4.3. Hearings may be dispensed with where all relevant persons agree a hearing is unnecessary.

### **5. Notice of Hearing**

- 5.1. Generally 10 clear days notice will be given of a hearing. There are exceptions to this rule.
- 5.2. Exceptions:
  - 5.2.1. 5 days notice will be given of a hearing for a review of a premises licence following a closure order;
  - 5.2.2. 2 days notice will be given of a hearing following police objection to an interim authority notice;

- 5.2.3. 2 days notice will be given of a hearing following police objection to temporary events notice.

## **6. Persons to be Notified of a Hearing**

- 6.1. The following persons must be notified of a hearing:
  - 6.1.1. Any applicant for any licence, provisional statement or review;
  - 6.1.2. Premises user who submitted a temporary event notice;
  - 6.1.3. Any person who has made relevant representations;
  - 6.1.4. Any Responsible Authority; and
  - 6.1.5. Where an application is made for a review, the holder of a premises licence or club premises certificate.

## **7. Contents of Notice**

- 7.1. The notice of a hearing must contain:
  - 7.1.1. The date, time and place of the hearing;
  - 7.1.2. The procedure to be followed at the hearing;
  - 7.1.3. The right of a party to attend and to be assisted or represented by any person whether legally qualified or not;
  - 7.1.4. Any points upon which the authority considers that it will want clarification from a party at the hearing;
  - 7.1.5. The right of the party to provide additional information to provide any clarification sought by the Authority;
  - 7.1.6. The consequences of failing to attend the hearing or is not represented at the hearing;
  - 7.1.7. Any information the Licensing Authority has received in support or opposition of the application.

## **8. Hearings to be open to the public**

- 8.1. Hearings will generally be open to the public as the Licensing Authority is committed to taking decisions in an honest, accountable and transparent way, but on occasions a licensing panel may find it necessary to exclude a party or parties, the public and press from all or any part of a hearing.
- 8.2. A panel will only pass an exclusion resolution where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public. Such decisions will be made on an individual basis.

- 8.3. The panel's deliberations, which do not form part of the hearing, will be conducted in private. The announcement of the panel's decision is part of the hearing and will generally be open to the public, subject to any exclusion resolution.

## **9. Failure to attend the hearing**

- 9.1. No party is obliged to attend a hearing, although the Licensing Authority encourages all parties to attend hearings to make their application or representation, as may be the case.
- 9.2. Regardless of whether a party attends a hearing or not, the matter will generally be heard and determined by the licensing panel (the Council, the Licensing Committee or a Licensing Sub-committee). At the hearing, the panel will consider any application, representation or notice made by an absent party in the same way as it will of any application, representation or notice made by a party that attends the hearing.
- 9.3. If, however, the hearing is adjourned to a specified date, all parties will forthwith be notified of the date, time and place to which the hearing has been adjourned.

## **10. Disruptive behaviour**

- 10.1. Any person who disrupts a hearing by the Council, the Licensing Committee or a Licensing Sub-committee of a matter under the Licensing Act 2003 may be required to leave the hearing.
- 10.2. It is for the panel hearing the matter to decide whether such person will be permitted to return to the hearing, but should they be allowed to do so, this may be on such conditions as the panel may specify.
- 10.3. If a disruptive person is a person who has a right to address the panel, then that person may, before the end of the hearing (i.e. before Stage 65 of the following procedure), put in writing any information they would have been entitled to give orally, had they not been required to leave the hearing.



**SUB - COMMITTEE AGENDA**

**11. Licensing Sub-Committee agenda**

- 11.1. The Licensing Sub-Committee Hearing shall be commenced in accordance with the Licensing Sub-Committee agenda. Any Committee matters shall be addressed at this stage.
- 11.2. The Licensing Sub-Committee Hearing procedure shall take over at the point at which the agenda item is called to be heard.
- 11.3. The Sub-Committee agenda shall deal with the issue of exclusion of press and public for the Licensing Sub-Committee Hearing.

## **HEARING PROCEDURE**

### **12. Opening the Hearing**

- 12.1. The Licensing Sub-Committee Hearing shall be formally opened by the Chair.
- 12.2. The Chair shall introduce Members of the licensing panel (a Licensing Sub-committee, the Licensing Committee or Council), officers present and all other parties present.
- 12.3. The Chair shall explain the procedure to be followed at the meeting and the nature of the decision to be taken by the panel.

### **13. Licensing Officer's Report**

- 13.1. The Licensing Officer presents his / her Report, including an outline of the application, the representation(s) and any points upon which the Licensing Authority has given notice that it required clarification; and identifies anything relevant in the legislation, the Council's Statement of Licensing Policy and the statutory guidance issued by the Secretary of State for Culture, Media and Sport.
- 13.2. Members of the panel may ask questions of the Licensing Officer with regards to the Report.

### **14. Licensing Authority's request(s) for clarification**

- 14.1. If points of clarification have been asked for, the Chair invites the Licensing Officer or relevant party to provide necessary information.
- 14.2. Members of the panel may ask questions with regards to the further information provided.

### **15. Presentation of Case / Submissions from Parties**

- 15.1. In the order of Applicant, Responsible Authority and Interested Party (or in the case of a review the relevant person), each party shall be invited to undertake the following:
  - 15.1.1. Set out their case;
  - 15.1.2. Call Witnesses in support of their case (provided notification of the witnesses has previously been given to the Council);
  - 15.1.3. Introduce documentary evidence in support of their case (provided notification of the documentary evidence has previously been given to the Council); and
  - 15.1.4. Respond to any questions asked of them by Members of the Licensing Panel.
- 15.2. At the Sub-Committee and Chair's discretion each party may ask questions of other parties by directing them through the Chair.

- 15.3. The Sub-Committee shall have the absolute discretion to restrict the number of witnesses and documents that any party can introduce, or the time spent on submissions or oral evidence, to ensure the proper running of the hearing.
- 15.4. Any witnesses that any party is seeking to call that have not previously been notified to the Council, in advance of the hearing, shall be allowed at the sole discretion of the Sub-Committee. In reaching the decision the Sub-Committee may consider any circumstances they believe to be relevant, and will have regard to the relevance of the evidence to the matters before the Committee.
- 15.5. Any documents that any party is seeking to call that have not previously been notified to the Council, in advance of the hearing, shall be allowed at the sole discretion of the Sub-Committee. In reaching the decision the Sub-Committee may consider any circumstances they believe to be relevant, and will have regard to the relevance of the evidence to the matters before the Committee.

## **16. Modification or Withdrawal of Application or Representation**

- 16.1. The Chair shall ask the applicant whether the applicant wishes to modify the application (e.g. by way of withdrawing a licensable activity and / or reducing the times asked for and / or volunteering additional steps to promote the licensing objectives).
- 16.2. The Chair shall ask each party making a representation whether such party would like to withdraw their representation.

## **17. Closing Submissions**

- 17.1. The Chair shall invite each of the parties to present a closing submission to the Sub-Committee.
- 17.2. The Chair shall invite the Licensing Officer to make any final representations.
- 17.3. At the end of the Closing Submissions the Chairman may ask the Legal Advisor if there is any clarification or points they wish to make.

## **18. Legal Advice**

- 18.1. The role of the Legal Advisor is to provide Members with advice on:
  - Questions of law;
  - Matters of practice and procedure;
  - The options available to the sub-committee in making their decision;
  - Whether information or evidence is relevant to the licensing objectives;
  - Any relevant case law or guidelines.
- 18.2. The hearing shall be directed by the Chair and assisted by the Legal Advisor as appropriate and necessary.

**19. Committee Decision in Relation to Procedure**

19.1. The Sub-Committee shall be entitled to vary the order and procedure for the hearing, at its absolute discretion.

**20. Determination of the Application**

20.1. After all representations have been heard, the Chair will inform all parties that the panel will retire in private to determine the matter.

20.2. Either the panel will retire alone to a private room or all parties, officers and members of the public will be required to leave the room, although the panel may invite their legal adviser to join them for the purpose of providing only legal advice - the details of which will be disclosed upon the hearing reconvening.

20.3. Should the sub-committee need to ask any further questions of any party, all parties shall be invited to return for the purposes of asking and answering questions.

20.4. Where the hearing is for:

- a review of a premises licence following a closure order;
- a personal licence by holder of a justices licence; or
- a counter notice following police objection to a temporary event notice.

The Sub-Committee must make its determination at the conclusion of the meeting.

20.5. For all other hearings the determination must be made within 5 working days of the hearing. The Sub-Committee will generally announce the determination at the end of the hearing.

20.6. The Sub-Committee may consider adding any conditions necessary in order to promote one or more of the four licensing objectives:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

20.7. All decisions shall be made in line with the general principles as detailed in section 2. Appendix A details the range of options available for determining each type of application.

20.8. The Sub-Committee shall complete the decision notice as shown at Appendix B.

20.9. The hearing will reconvene and the Chair will either:

- announce the Sub-Committee determination including reasons for the determination; or

- advise those persons present that the Sub-Committee has not reached a decision, but will make a determination as soon as it can and, in any event, within five working days. All parties will then be notified forthwith of the decision.

## **POST HEARING**

### **21. Record of Proceedings**

- 21.1. The authority shall ensure that a record is taken of the hearing.
- 21.2. The record shall be kept for a period of six years from the date of the final action on the matter.

### **22. Irregularities**

- 22.1. Proceedings shall be rendered void due to a failure to comply with the procedures set out in this document.
- 22.2. Any failure to comply with the Hearing Regulations shall not render the process or the decision void.
- 22.3. Where the Authority considers any person to have been prejudiced from the irregularity it shall take such steps as it considers fit to remedy the irregularity, before reaching its determination.
- 22.4. Clerical mistakes may be corrected by the Authority.

### **23. Decision Notices**

- 23.1. The Authority shall provide a written notice of its determination as soon as practicable after the hearing and within 5 working days.
- 23.2. An appeal must be commenced within 21 days of notification of the decision. Waiting for the delivery of the Decision Notice will not extend this appeal period.

### **24. Appeals**

- 24.1. An appeal against the determination of the Authority must be made to the appropriate Magistrates Court within 21 days of the date of delivery of the decision.

### **25. Closing the Hearing**

- 25.1. The Chair shall thank all parties for attending and draw the hearing to a close.
- 25.2. Should there be another hearing to be heard by the Sub-Committee shall begin the procedure again.

**Licensing Sub-Committee Checklist**  
**Procedure for determining applications under the Licensing Act 2003**

Item				
1.	Chair to introduce Sub-Committee, Committee Administrator, other Officers and all Parties present.			
2.	Chair to explain procedure for hearing to all parties.			
3.	Licensing Officer to introduce application, including details of the premises, application, objections, references to the Licensing Objectives and Policy and Statutory Obligations.			
4.	Chair to invite Sub-Committee to ask any questions of the Licensing Officer, in relation to the report provided.			
5.	Chair to ask Licensing Officer whether there are any points requiring Clarification.			
Steps 6 to 9 to be completed for each party in the order of Applicant (A), Responsible Authority (RA) and Interested Party (IP). The chair will invite each party to:		A	RA	IP
6.	Set out their case			
7.	Call Witnesses in support of their case (provided notification of the witnesses has previously been given to the Council);			
8.	Introduce documentary evidence in support of their case (provided notification of the documentary evidence has previously been given to the Council); and			
9.	Respond to any questions asked of them by Members of the Licensing Panel.			
Repeat steps 6 to 9 for each party				
10.	At the Sub-Committee and Chair's discretion each party may ask questions of other parties by directing them through the Chair.			
11.	Chair asks Applicant if they wish to modify or withdraw their application in any way.			
12.	Chair to invite closing submissions from applicant, responsible authorities and interested parties.			
13.	The Sub-Committee will retire into private to consider its decision.			
14.	Chair will announce the decision of the Sub-Committee and the reasons for the decision.			

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## **APPENDIX A**

### **Options for determining applications**

#### Determination of application for premises licence

- To grant the licence
- To grant with the addition of conditions necessary to promote any of the licensing objectives
- To exclude from the scope of the licence any of the licensable activities to which the application relates
- To refuse to specify a person in the licence as the premises supervisor
- To reject the application

#### Determination of application for variation of a premises licence

- To grant the variation
- To modify the conditions of the licence – this includes altering or omitting any existing condition or adding any new conditions
- To reject the whole or part of the application

#### Determination of application for review of a premises licence

- To modify the conditions of the licence - this includes altering or omitting any existing condition or adding any new conditions
- To exclude a licensable activity from the scope of the licence
- To remove the designated premises supervisor
- To suspend the licence for a period not exceeding three months
- To revoke the licence

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## **The 4 Licensing Objectives**

**To promote the Licensing Objectives:**

- 1. Prevention of Crime and Disorder**
- 2. Public Safety**
- 3. Prevention of public nuisance**
- 4. Protection of children from harm.**

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<b>LICENSING SUB-COMMITTEE</b>
<b>9 NOVEMBER 2010</b>

<b>SUBJECT</b>	<b>LICENSING ACT 2003 – DETERMINATION OF APPLICATION FOR REVIEW OF A PREMISES LICENCE AT PREMIERE STORE, 82 HOUSE LANE, ARLESEY</b>
<b>REPORT OF</b>	<b>Head Of Service Public Protection</b>
<i>Contact Officer:</i> <a href="mailto:jenny.hillier@centralbedfordshire.gov.uk">jenny.hillier@centralbedfordshire.gov.uk</a> <a href="mailto:dave.mcbain@centralbedfordshire.gov.uk">dave.mcbain@centralbedfordshire.gov.uk</a>	

## 1. The Application

1.1 An application has been submitted by a responsible authority for review of the premises licence at Premiere Store, 82 House Lane, Arlesey. Copy application at Appendix A.

1.2	Activity	Current Provision	The Application
	Supply of Alcohol	Mon to Sat 08:00hrs to 23:00hrs Sun 10:00hrs to 22:30hrs <i>Extension to Sale of alcohol on Good Friday 08:00hrs to 22:30hrs and Christmas Day 12:00hrs to 15:00hrs then 19:00hrs to 22:30hrs.</i>	N/A
	Hours of Opening	No restrictions	N/A

1.3 The premises is situated adjacent to residential properties and faces onto House Lane, Arlesey. The general area is made up of mainly residential properties. A copy of the location map is attached at Appendix B.

## 2. Relevant History

2.1 The original application for conversion to a licence under the Licensing Act 2003 was received on 01/08/2005. No objections were received from either responsible authorities or interested parties, and the license was granted on 24/11/05.

The premises failed two alcohol test purchase operations that were undertaken by Trading Standards and the Police and sold alcohol to children on 27/02/07 and 15/10/08.

Trading Standards provided Premiere Stores with detailed advice and guidance on implementing and setting up systems, including staff training, to prevent sales of alcohol to children on 9 separate occasions. Premiere Stores failed to implement any of these systems or staff training.

Following two more failed test purchase operations on 09/09/09 and 14/10/09 Premiere Stores were prosecuted at Bedford magistrates Court on 17/08/10 under section 146 of the Licensing Act 2003, for selling alcohol to children on two separate occasions.

The Magistrates found the Premises Licence holder guilty of both charges and he was fined £525.00 in respect of each offence. In addition to this costs of £2734.00 were imposed on the Premises Licence holder. See Appendix C.

The prosecution at Bedford Magistrates Court has lead to this application for review. The applicant has suggested the following measures which could be taken to prevent further underage sales.

- Have on display Challenge 25 display materials.
- Have in place a Challenge 25 scheme at the premises.
- No sales of alcohol after 5pm can be made without the purchaser producing sufficient identification (passport, photo driving licence, accredited proof of age card).
- Refusals book or electronic point of sale refusals log.
- Refusals book to be checked and signed weekly by the Designated Premises Supervisor for use by staff and correct completion.
- Designated Premises Supervisor or a Personal Licence holder to be present on shop floor when all alcohol sales are made.
- Training for Designated Premises Supervisor – e.g specified BIIAB course or similar qualification.

### **3. Promotion of Licensing Objectives**

3.1 The current conditions consistent with the operating schedule are included at Appendix D).

### **4. Representations from responsible Authorities**

4.1 There are no other representations from responsible authorities.

### **5. Interested Parties**

5.1 There are no representations from interested parties.

### **6. Licensing Policy**

6.1 Members' attention is drawn to the Council's Licensing Policy, in particular section 7.4, which refers to the relevant licensing objective which is The Protection of Children from Harm.

### **7. Secretary of State's Guidance**

7.1 The sub committee must have regard to the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003, and Annex G refers to the relevant objective.

**8. Observation and General Guidance**

8.1 The Sub-Committee must consider the application and/or any submissions made in writing, and determine the application.

The options available are:

- To modify the conditions of the licence - this includes altering or omitting any existing condition or adding any new conditions
- To exclude a licensable activity from the scope of the licence
- To remove the designated premises supervisor
- To suspend the licence for a period not exceeding three months
- To revoke the licence

8.2 The Sub-Committee determination must be based upon:-

- The merits of the application.
- The promotion of the four Licensing objectives.
- The Policy of the Licensing Authority.
- The Guidance issued by the Secretary of State for Culture, Media and Sport.

8.3 The Sub-Committee must provide reasons for their decision.

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**Background Papers:** Licensing Act 2003, DCMS Guidance, Central Bedfordshire Council Licensing Policy  
**Location of Papers:** Licensing Section  
**File Reference:** 2000181

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**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 Tim Argent**

**apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below**

**Part 1 – Premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Bhupinder MANN & Harjeet MANN Premiere Store / Arlesey Superstore 82 House Lane Arlesey Central Beds	
<b>Post town</b> Arlesey	<b>Post code (if known)</b> SG15 6XX
<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Bhupinder MANN	
<b>Number of premises licence or club premises certificate (if known)</b> 2000181	

**Part 2 - Applicant details**

I am Tim Argent

**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 <b>Tim Argent – Senior Enforcement Officer – Trading Standards Central Bedfordshire Council – Public Protection Priory House Monks Walk Chicksands Beds SG17 5TQ</b>
Telephone number (if any) <b>0300 300 8136</b>
E-mail address (optional) <b>Tim.argent@centralbedfordshire.gov.uk</b>

**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 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)**

On the 17<sup>th</sup> August 2010 – The store was prosecuted on 2 counts at Bedford Magistrates court under section 146 of the Licensing Act 2003, for selling alcohol to children on two separate occasions (9<sup>th</sup> September 2009 & 14<sup>th</sup> October 2009).

The store in addition to these sales has sold alcohol to children on two other occasions (26<sup>th</sup> Feb 2007 & 15<sup>th</sup> October 2008).

On 9 separate occasions (listed below) this Service has given the store detailed advice and guidance on implementing and setting up proven systems (including staff training) to prevent sales of age-restricted products to children. The store has failed to implement any of these systems or staff training.

(11/11/2004, 01/11/2006, 26/02/2007, 22/05/2008, 15/10/2008, 09/09/2009, 05/10/2009, 14/10/2009, 26/11/2009)



**Please provide as much information as possible to support the application**

Bhupinder MANN and Harjeet MANN have owned and run the Premiere Store, 82 House Lane, Arlesey, Central Bedfordshire for over 18 years. The store failed the aforementioned test purchase of alcohol operation on 26<sup>th</sup> February 2007. Following the sale the store was given advice and guidance on setting up and implementing adequate quality systems to prevent further sales and substantiating a due diligence defence. This was the same advice and guidance given to them during a visit to the store back on the 11/11/04 during which time they were given a Trading Standards 'Traders Charter' Pack (basic diligence system including refusals register, signage and staff training). This advice was again given to the store during another advisory visit on the 22/05/2008.

The store then failed the aforementioned test-purchase on the 15<sup>th</sup> October 2008, during which time alcohol was sold to a 16 year old. Following the sale Mr MANN was again advised regarding staff training records, refusals systems and implementing a '21 policy'. Mr MANN received a written warning from Trading Standards for this sale in which he was again advised to implement systems such as staff training records, documented monitoring of the refusals book, '21 age check' policy etc to prevent further sales and establish a diligence defence if a sale did occur.

On the 9<sup>th</sup> September 2009 the Premiere Store again sale alcohol to a 16 year old. The seller (the owner's son) was Mr Sundean MANN. Following the sale I spoke to both Sundean MANN & Bhupinder MANN. Sundean was issued with a fixed penalty notice for selling the alcohol. I asked Bhupinder MANN if he had any staff training records to which he replied he didn't. The store was operating a 'Refusals Book' recording the details of when staff had refused an age restricted sale, but no manager or reviewing person had signed the book monitoring its use or identifying issues such as lack of refusal by certain members of staff or the accurate recording of the refusal. MANN was advised to do this on all the previous advisory visits and subsequent correspondences in order to not only have in place a quality system but to evidence that it works or is working. The refusals book had been regularly used up until 18/07/09 for the last two months the book hadn't been used. Mr MANN was again given advice and guidance and told that the store would be re-tested within the next two months.

On the 5<sup>th</sup> October 2009 Mr MANN attended a formal tape-recorded interview at Borough Hall, Bedford. When questioned regarding staff training records which at the time of the sale he stated there weren't any, MANN explained that he thinks he might have received a small booklet relating to underage sales which he's sure all 7 of his staff have read and signed, although he can't recall signing it himself or any of its contents. Mr MANN went on to explain that when I asked for any staff training records immediately after the sale he wasn't thinking straight as he had been relaxing upstairs away from the shop and that he didn't understand what I was asking for or he would have produced the signed training booklet at the time. MANN explained that following both of the sales he spoke to the members of staff in question and told them not to serve anybody who looks underage. No other actions were taken by MANN to prevent the sale of alcohol to under 18's from his shop. Following the interview MANN was again told that the store would be re-tested within the next month.

The store was tested again on the 14<sup>th</sup> October 2009. A bottle of wine was sold to a 16 year old operative. The seller was a Sharon TRUETT. TRUETT had questioned the operatives age and asked for id, when they said they didn't have any, and that they come in the store all the time, TRUETT replied 'F\*\*k it, if I get in trouble ill kill you' and made the sale.



When I entered the store following this sale and questioned TRUETT her attitude was very aggressive. Although she had questioned the operatives age she gave the impression that she had made the sale of alcohol as she thought they were locals. This is a significant problem faced by Trading Standards & the Police when tackling issues of high levels of alcohol fuelled anti-social behaviour in identified areas. The result of young people drinking to excess is recorded via complaints and Police Intel but the supply of the alcohol is often distorted as irresponsible traders will only sell to local children and not the test purchase operatives sent in who for safety reasons are never local to the area. This giving the impression the store is trading responsibly as their underage sales failure rate is lower than a true reflection of the stores actions.

TRUETT was asked under caution if she had signed any training records to which she replied she had not. TRUETT was also not fully aware of the 25 policy and what it meant; she explained that it had not been explained to her. TRUETT said she had worked in the store for over a year and was clearly not a new member of staff. She had been left on her own to run the store. MANN was questioned at the time and asked to produce the signed training record/booklet that he claimed all staff had signed prior to the sale on the 9<sup>th</sup> September. MANN failed to produce the booklet and said he could no longer find it. He went on to say that TRUETT hadn't been trained regarding the new refusals books as 'Peggy' his manager doesn't work when TRUETT does so hadn't trained her.

MANN attended another formal tape-recorded interview on the 26<sup>th</sup> November 2009. During the interview he claimed he had actually asked Peggy to get all the staff to sign the training booklet previously mentioned and hadn't checked if she had done this. He also went on to explain that he had explained the new 25 policy age check to all staff including TRUETT although he hadn't asked or checked if they understood it. When questioned why TRUETT claimed to have received no training MANN claimed she had panicked at the time of my questioning and that she 'wasn't the sharpest tool in the box'. MANN went on to explain that it was Peggy who had photocopied and given out the new training records and refusals books, and that he hadn't checked to see if this had been done or if any of the refusals book were being used.

Attention should be brought to the fact that MANN lives above the store and works in there 6-7 days a week. The store is not a big store and usually has only 1-2 members of staff working at any one time. MANN seems to have delegated responsibly for staff training and quality systems to his employee Peggy but despite having extremely close contact with the store on a daily basis has done nothing to make sure any of this has happened or that staff are trained to a competent level. This is despite the several visits from this service advising him to do so, and the 3 failed test-purchases within a year. MANN stated that he was in the process of implementing a stickering and till prompt system following the sale on the 9<sup>th</sup> September. Following the sale on the 14<sup>th</sup> October this still hadn't been done. MANN claimed during the first interview that all staff went through a 2-3 week shadowing/training programme with him, this then changed during the second interview to the training being carried out by Peggy, and again he had never checked if this had been done. MANN claims to have spoken directly to TRUETT on at least two occasions prior to the sale on the 14<sup>th</sup> October 09 but when questioned she stated that she hadn't received any training from MANN. The current systems in store including a training booklet and refusals register for each member of staff had been partly implemented by Peggy but MANN had again carried out no checks to see if this had been done or was being used. The refusals registers in questions were kept under the store sales counter, the same counter MANN stands behind on a daily basis.



Recommended License Conditions:

<b>Problem/issue</b>	<b>Condition Sought</b>
Inadequate ID signage	Challenge 25 display materials
No clear/consistent ID policy	Challenge 25 scheme at premises
Sales to local underage youths	No sales of alcohol after 5pm can be made without the purchaser producing sufficient Identification (passport, photo driving licence, accredited proof of age card)
Inadequate records of refused sales	Refusals book or electronic point of sale refusals log
	Refusals book to be checked and signed weekly by DPS for use by staff and correct completion.
Staff making underage sales / a lack of supervision at the premises	DPS or a personal licence holder to be present on shop floor when all alcohol sales are made
DPS ineffective but appears capable of improvement	Training for DPS – e.g. specified BIAB course or similar qualification.

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

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



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



Date: 14/09/2010

Capacity : Senior Enforcement Officer – Trading Standards

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 5)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b> tim.argent@centralbedfordshire.gov.uk	

**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.

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Date: 19 October 2010

Scale: 1:1000

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Central Bedfordshire Council.  
100049029. 2010.



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Mr Mann did not attend. Both allegations were proved (sale on 9/9/9 and sale on 14/10/9) in his absence. The magistrates attention was drawn to the fact that Mr Mann was repeatedly given guidance by TS as to what was expected of him as an owner and DPS and also the fact that there were 2 previous sales to under-18 operatives apart from the ones before the court. The magistrates found Mr Mann guilty of both charges and fined him £525.00 in respect of each offence. In addition we were awarded our full costs of £2,734.00 (of which TS portion is £2,046.00, and the rest is legal costs). As usual, there was also imposed a £15.00 victim's surcharge. Thus, Mr Mann has got to pay £3,799.00 in total.

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Annex 1 - Mandatory conditions

**Mandatory conditions where licence authorises supply of alcohol**

- 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 under the premises licence must be made or authorised by a person who holds a personal licence.

**Conversion of Existing Licenses  
Schedule 8 paragraph 6 of the Licensing Act 2003**

**This Licence has been granted upon conversion under Schedule 8 of the Licensing Act 2003 of the existing Justices Licence and such rights and restrictions that applied thereto are hereby incorporated into this Licence, subject to any terms herein to the contrary and/or any limitations or restrictions imposed by the Licensing Act 2003 or any subsequent amendment thereto.**

Off Licences			
s. 60, 63, 86, Licensing Act 1964	Permitted hours (Off-licences and off-sales departments of on-licensed premises)	ER	<p>"Alcohol shall not be sold or supplied except during permitted hours.</p> <p>In this condition, permitted hours means:</p> <ol style="list-style-type: none"> <li>a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.</li> <li>b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.</li> <li>c. On Christmas Day, 12 noon to 3 p.m. and 7p.m. to 10.30 p.m.</li> <li>d. On Good Friday, 8 a.m. to 10.30 p.m.</li> </ol> <p>The above restrictions do not prohibit:</p> <ol style="list-style-type: none"> <li>(a) the taking of the alcohol from the premises, (unless the alcohol is supplied or taken in an open vessel,) during the first twenty minutes after the above hours;</li> <li>(b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;</li> <li>(c) the sale of alcohol to a trader or club for the purposes of the trade or club;</li> <li>(d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of</li> </ol>

			members of Her Majesty's naval, military or air forces."
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<b>Off Licences</b>			
S.164 Licensing Act 1964	Off-licence Consumption	ER	"Alcohol shall not be sold in an open container or be consumed in, the licensed premises."



**Annex 2 - Conditions consistent with the Operating Schedule**

- 1) Nationally recognised proof of age cards and other photographic ID cards to be requested as verification of proof of age.

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