

A G E N D A

Regulatory Sub Committee

Date: **Wednesday, 4th July, 2007**

Time: **9.00 a.m.**

Place: **The Council Chamber,
Brockington, 35 Hafod Road,
Hereford**

Notes: Please note the **time, date** and **venue** of
the meeting.

For any further information please contact:

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AGENDA

for the Meeting of the Regulatory Sub Committee

To: Councillors CM Bartrum, SPA Daniels and JW Hope MBE

| | Pages |
|--|---------|
| <p>1. ELECTION OF CHAIRMAN</p> <p>To elect a Chairman for the hearing.</p> | |
| <p>2. APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p> | |
| <p>3. NAMED SUBSTITUTES (IF ANY)</p> <p>To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.</p> | |
| <p>4. DECLARATIONS OF INTEREST</p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p> | |
| <p>5. APPLICATION FOR VARIATION OF PREMISES LICENCE 'ROYAL NATIONAL COLLEGE FOR THE BLIND, COLLEGE ROAD, HEREFORD, HR1 1EB.'</p> <p>To consider an application for variation of the premises licence in respect of Royal National College for the Blind, College Road, Hereford, HR1 1EB.</p> | 1 - 4 |
| <p>6. APPLICATION FOR VARIATION OF PREMISES LICENCE 'HOM GREEN CHAPEL, ARCHENFIELD ROAD, HOM GREEN, HR9 5QN.'</p> <p>To consider an application for a new premises licence in respect of Hom Green Chapel, Archenfield Road, Hom Green, HR9 5QN.</p> | 5 - 8 |
| <p>7. APPLICATION FOR VARIATION OF PREMISES LICENCE 'BIG CHILL, EASTNOR CASTLE DEER PARK, EASTNOR, LEDBURY, HR8 1RD.'</p> <p>To consider an application for a time limited premises licence in respect of the Big Chill, Eastnor Castle Deer Park, Eastnor, Ledbury, HR8 1RD.</p> | 9 - 12 |
| <p>8. APPLICATION FOR VARIATION OF PREMISES LICENCE 'FLAMES, 21 UNION STREET, HEREFORD, HR1 2BB.'</p> <p>To consider an application for variation of the premises licence in respect of Flames, 21 Union Street, Hereford, HR1 2BB.</p> | 13 - 18 |

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- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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In the event of a fire or emergency the alarm bell will ring continuously.

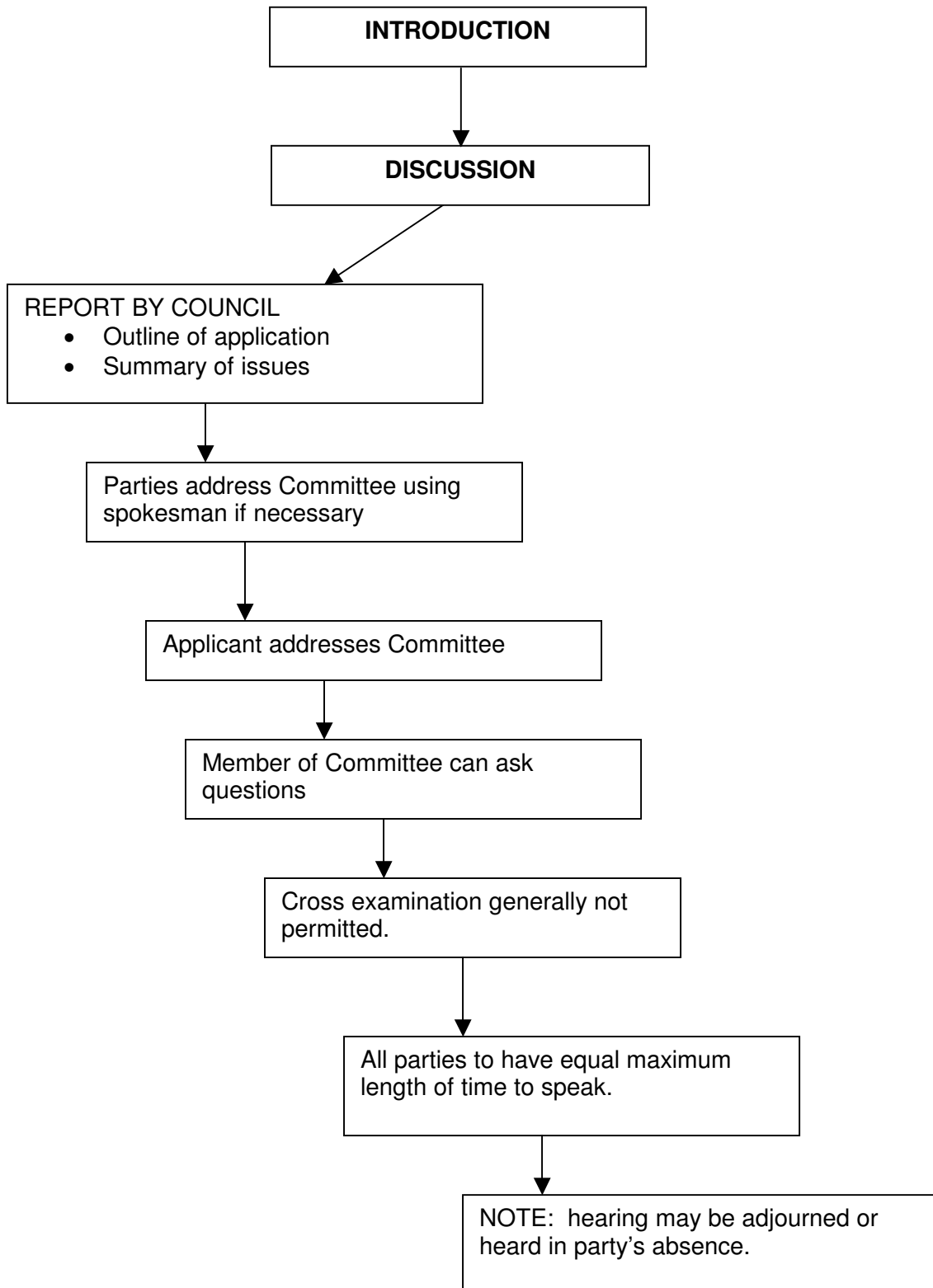
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LICENCING HEARING FLOW CHART



APPLICATION FOR VARIATION OF PREMISES LICENCE ;ROYAL NATIONAL COLLEGE FOR THE BLIND ,COLLEGE ROAD,HEREFORD HR1 1EB' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Aylestone , Hereford

1. Purpose

To consider an application for variation of the premises licence in respect of Royal National College for the Blind, College Road, Hereford, HR1 1EB.

Background Information

| | | | |
|--|-----------------------------------|---|------------------------------------|
| Applicants | RNCB | | |
| Solicitor | N/A | | |
| Type of application: Variation | Date received: 17/05/07 | 28 Days consultation 13/05/07 | Issue Deadline: 11/07/07 |

The advertisement for the premises has been seen and accepted. The current premises licence was submitted with the application and a copy is attached as an Appendix to this report

2. Current Licence

Details of the current premises licence are summarised below: -

| Licensable activities | Hours |
|--|---|
| All indoors Performance of a play, film , dance. Live music, recorded music Anything of a similar description , Provision of facilities for making music , dancing, for entertainment of a similar description. | Monday - Sunday; 09:00 – 00.00 Monday – Sunday 12:00 – 00:00 |
| Sale of alcohol on and off the premises Non Standard Hours | Monday – Sunday 11.00 – 00.00 Christmas Eve, New Years Eve all Bank Holidays and Saints Days to extend times by one hour (St Patrick , David, Andrew & George). |

3. Variation Licence Application

The application for a variation has received representations from a responsible body and members of the public. It therefore is now brought before the committee to determine the application.

4. Summary of Application

The applicant has not applied for any new activities or for any additional hours for either licensable activities or the sale of alcohol. The Student Bar is currently on the first floor. The building is currently under refurbishment and the applicant requests the re-siting of the students bar onto the ground floor adjacent to the Main Hall. It will consist of a permanent fixed bar in the new student bar.

Also to be included in the application is the patio area outside the Woollard Room as shown on the plan submitted with the application. The outside patio area is not mentioned in the advert and therefore cannot be included. Plans will be available in the Council Chamber prior to the hearing.

5. The following hours in respect of the supply of alcohol (*on the premises*); -

Hour's premises open to the public (Not licensable on it's own)

| | |
|-------------------------------|--------------|
| Monday to Thursday and Sunday | 1000 – 23.30 |
| Friday & Saturday | 1000 – 01.00 |

The premises will remain open to the public for 30 minutes after these times.

6. Summary of Representations**West Mercia Police**

West Mercia Police have made no comments.

Fire Authority

The Fire Authority have made no comments, providing a fire risk assessment is carried out .

Environmental Health

The Environmental Health Officer has made representations in relation to the application. The representation addresses the licensing objectives relating to Public Safety and Prevention of Public Nuisance .The applicant has agreed conditions made by the Environmental Health Officer.

Interested Parties

The Local Authority has received 15 (fifteen) letters of representation from local residents.

The concerns relate to:

- Prevention of Crime & Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

7 **Issues for Clarification**

This Authority has not requested clarification on any particular point.

8 . **Herefordshire Council Licensing Policy**

In making its decision the committee will be obliged to have regard to its own policy, the DCMS guidance and have regard to all documents specified within the DCMS Guidance.

9 **Options:-**

It is for the committee to take such steps below as it considers necessary for the promotion of the licensing objectives:

- Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003.
- Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it necessary for the promotion of the licensing objectives and add mandatory condition set out in the Licensing Act 2003.
- 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 premise supervisor
- To reject the application.

10 **Background Papers**

- Public Representation Form
- Police Comments
- Environmental Health & Trading Standards Comments
- Application Form
- Any other associated papers
- Current Premises Licence

Background papers are available for inspection in Committee Room, Brockington 30 minutes before the start of the hearing.

NOTES

Guidance issued under section 182 of the Licensing Act 2003, Section S18(7)

Relevant, vexatious and frivolous representations

5.73 A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives....

5.75 It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious....

The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness....

**APPLICATION FOR GRANT OF A PREMISES LICENCE
FOR 'HOM GREEN CHAPEL, ARCHENFIELD ROAD,
HOM GREENM, HR9 5QN.' - LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Kerne Bridge

1. Purpose

To consider an application for a premises licence in respect of 'Hom Green Chapel, Archenfield Road, Hom Green, HR9 5QN.'

2. Background Information

| | | |
|------------------------------------|-------------------------------------|---|
| Applicant | Alan Markby & Paul Sabel | |
| Solicitor | N/A | |
| Type of application: New | Date received: 12/05/07 | 28 Days consultation 08/06/07 |

The original advertisement for the premises has been seen and has been accepted.

3. Variation Licence Application

The application for a premises licence has received representations from a responsible authority and an interested party. It is therefore now brought before committee to determine the application.

4. Summary of Application

The licensable activities applied for are: -
Live Music and Recorded Music.

5. The following hours have been applied for in respect of Live Music (Indoors only) -
All days of the week 18:00 – 23:00

6. The following hours have been applied for in respect of Recorded Music (indoors only): -
All days of the week 18:00 – 22:00

No hours have been specified for the premises to be open to the public.

10. Non Standard hours

There is no application for 'non-standard' hours.

11. Summary of Representations

Copies of the representations and suggested conditions can be found within the background papers.

West Mercia Police

Have no representation to make.

Environmental Health

Have made representation in relation to public safety and prevention of public nuisance.

The applicant has agreed to the conditions requested by the Environmental Health Officer.

Fire Authority.

Have no representation to make.

12. Issues for Clarification

This Authority has requested clarification on the following points: -

The application shows no hours the premises are to be open to the members of the public for licensable activities. The applicant has been asked to provide these to the committee.

13. Herefordshire Council Licensing Policy

In making its decision the committee will be obliged to have regard to its own policy, the DCMS guidance and all documents submitted in respect of the application.

14. Options: -

It is for the committee to take such steps below as it considers necessary for the promotion of the licensing objectives:

- Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003.
- Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it necessary for the promotion of the licensing objectives and add mandatory condition set out in the Licensing Act 2003.
- 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 premise supervisor
- To reject the application.

15. Background Papers

- Application Form
- Environmental Health Officer's Comments
- Copy of representation from interested party
- Location plan

Background papers were available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.

NOTES

Guidance issued under section 182 of the Licensing Act 2003, Section S18 (7)

Relevant, vexatious and frivolous representations

- 5.73 A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives....
- 5.75 It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious....

The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness....

Licensing Authorities power to exercise substantive discretionary powers.

The British Beer and Pub Association (2) The Association of Licensed Multiple Retailers (3) The British Institute of Inn keeping V Canterbury City Council.

Contesting the validity of the Licensing policy that asks for certain requirements before the application has been submitted. In the summing up the Judge states; The scheme of the legislation is to leave it to applicants to determine what to include in their applications, subject to the requirements of Section 17 and the Regulations as to the prescribed form and the inclusion of a statement of specified matters in the operating schedule. An applicant who makes the right judgement, so that the application gives rise to no relevant representations, is entitled to the grant of a licence without the imposition of conditions. The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision – making function under section 18 (3) is engaged.

**APPLICATION FOR GRANT OF A TIME LIMITED
PREMISES LICENCE FOR 'BIG CHILL, EASTNOR
CASTLE DEER PARK, EASTNOR, LEDBURY, HR8
1RD.' - LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Ledbury

1. Purpose

To consider an application for a premises licence in respect of the Big Chill, Eastnor Castle Deer Park, Eastnor, Ledbury, HR8 1RD.

2. Background Information

| | | |
|------------------------------------|-----------------------------------|---|
| Applicant | Chillfest Ltd | |
| Solicitor | N/A | |
| Type of application: New | Date received: 26/02/07 | 28 Days consultation 25/03/07 |

The advertisement for the premises has been seen and is correct.

3. Previous Hearing

This matter was previously heard by the Sub-Committee on 23rd April, 2007 when the decision was deferred to allow the applicant to submit further documentation to satisfy the responsible authorities of their ability to promote the four licensing objectives.

4. Licence Application

The application for a new premises licence has received representations objecting to the grant of a licence from the Police, Fire Authority and Environmental Health. It is therefore now brought before committee to determine the application.

5. Summary of Application

The application is for a time limited licence to operate between 2nd August and 6th August, 2007.

- 6.** The licensable activities applied for are (all indoors and outdoors): -
Plays, Films, Live Music, Recorded Music, Performance of dance, Provisions for making music, Provision of facilities for dancing, entertainment of a similar nature to the provision of facilities for music and dance, Late Night Refreshment and Supply of Alcohol (Off Premises only).

The following hours have been applied for 3rd, 4th, 5th and 6th August: -

Plays, Performance of dance 1200 – 0300

Films, Live Music, Recorded Music, Provisions for making music, Provision of facilities for dancing, entertainment of a similar nature to the provision of facilities for music and dance 1200 – 0500

The following hours have been applied for 2nd,3rd, 4th, 5th and 6th August: -

Late Night Refreshment 2300 – 0500

Supply of Alcohol 1100 – 0300

7. The premises are to be open to the public: -
From 0900 hours on 2nd August until 1600 hours on 6th August, 2007.

8. **Non Standard hours**
There is no application for 'non-standard' hours.

9. **Summary of Representations**

West Mercia Police

Have objected to the grant of the licence.

Environmental Health

Have objected to the grant of the licence.

Fire Authority.

Have objected to the grant of the licence.

Interested Parties.

The Local Authority has received no representations in respect of the application from local residents.

10. **Additional Information**

There have been a number of meetings of the Safety Advisor Group set up in respect of the Big Chill involving all the responsible authorities and the applicant.

It is hoped that prior to the hearing a set of conditions will be agreed between all parties.

11. **Herefordshire Council Licensing Policy**

In making its decision the committee will be obliged to have regard to its own policy, the DCMS guidance and all documents submitted in respect of the application.

12. Options: -

It is for the committee to take such steps below as it considers necessary for the promotion of the licensing objectives:

- Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003.
- Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it necessary for the promotion of the licensing objectives and add mandatory condition set out in the Licensing Act 2003.
- 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 premise supervisor
- To reject the application.
- To adjourn the matter to a specified date if they felt that it I in the public interest to do so

13. Background Papers

- Copies of representation for police, Environmental Health Officer and the Fire Brigade.

Background papers were available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.

NOTES**Guidance issued under section 182 of the Licensing Act 2003, Section S18 (7)****Relevant, vexatious and frivolous representations**

- 5.73 A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives....
- 5.75 It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious....

The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness....

Licensing Authorities power to exercise substantive discretionary powers.**The British Beer and Pub Association (2) The Association of Licensed Multiple Retailers (3) The British Institute of Inn keeping V Canterbury City Council.**

Contesting the validity of the Licensing policy that asks for certain requirements before the application has been submitted. In the summing up the Judge states; The scheme of the legislation is to leave it to applicants to determine what to include in their applications, subject to the requirements of Section 17 and the Regulations as to the prescribed form and the inclusion of a statement of specified matters in the operating schedule. An applicant who makes the right judgement, so that the application gives rise to no relevant representations, is entitled to the grant of a licence without the imposition of conditions. The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision – making function under section 18 (3) is engaged.

APPLICATION FOR VARIATION OF PREMISES LICENCE 'FLAMES, 21 UNION STREET, HEREFORD, HR1 2BT' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Central

1. Purpose

To consider an application for a variation premises licence in respect of 'Flames, 21 Union Street, Hereford, HR1 2BB'.

2. Background Information

| | | |
|------------------------------------|-----------------------------------|---|
| Applicant | Cemmete Ltd | |
| Solicitor | Colin CHARVILL | |
| Type of application: New | Date received: 15/05/07 | 28 Days consultation 11/06/07 |

The advertisement for the premises has not been seen.

3. Current Licence

The current licence was issued by the Regulatory Sub-Committee on 27th October, 2005 and authorises as follows: -

| | Late night refreshment | Open to the public |
|-----------|-------------------------------|---------------------------|
| Monday | 1200 - 2400 | 1200 - 2400 |
| Tuesday | 1200 - 2400 | 1200 - 2400 |
| Wednesday | 1200 - 0100 | 1200 - 0100 |
| Thursday | 1200 - 0100 | 1200 - 0100 |
| Friday | 1200 - 0130 | 1200 - 0130 |
| Saturday | 1200 - 0130 | 1200 - 0130 |
| Sunday | 1600 - 0100 | 1600 - 0100 |

NON-STANDARD HOURS

| | Late night refreshment | Open to the public |
|---------------|-------------------------------|---------------------------|
| Bank Holidays | 1000 - 0130 | 1000 - 0130 |

CONDITIONS

The following conditions are attached: -

The Licensing Act 2003: Mandatory condition: door supervision -
Each individual required to carry out a security activity must be licensed by the Security Industry Authority

Prevention of Crime:

CCTV

Door men

The provision of CCTV which meets the requirements and expectations of the Licensing Authority and the Police
The provision of Pub Watch Radio

Prevention of Nuisance:

Litter bins provided outside premises

1. The licensee shall ensure that noise and vibration does not emanate from the premises so as to cause a public nuisance.
2. All chiller units/extraction units/ ventilation systems/ air conditioning systems shall be maintained in good working order and cleaned as per the manufacturers instructions. All securing bolts and fastenings shall be maintained in a good state of repair without slackening to minimise noise and vibration.
3. No noxious smells shall be emitted from the premises at any time so as to cause a nuisance.
4. The extraction/filtration system fitted in the kitchen/cooking area shall be maintained in a good state of repair and in clean condition.
5. A grease trap shall be fitted to the foul drainage pipe work serving the cooking area/kitchen to prevent grease accessing the pipe work that could cause a blockage. The grease trap shall be maintained in good working order and regularly cleaned.
6. Receptacles of sufficient capacity shall be provided for the deposit of litter in the shop front area at all times.

7. Receptacles of sufficient capacity with close fitting lids shall be provided at the premises for adequate storage of refuse and a regular waste collection contract in place to prevent accumulations and minimise the likelihood of nuisance.

8. Prominent, clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly

Public Safety:

Free Drinking Water

Door Supervisor

Effective & Responsible Management of the premises.

9. No serviettes, straws, cutlery or other eating utensils shall be stored in the customer area after 11pm.

10. No glass bottles or glass containers shall be supplied at the premises after 20.00 hours on any day.

11. Adequate systems shall be in place to effectively control the number of persons entering the premises and effectively deal with any altercations, aggressive behaviour or crowd control issues that may arise at the premises.

Protection of Children:

Restricted access to hazardous areas ie. kitchen

4. Variation Licence Application

The application for variation has received representations by responsible authorities. It therefore is now brought before committee to determine the application.

5. Summary of Application

The licensable activities applied for are: -
Late Night Refreshment

6. The following hours have been applied for (*Indoors*) in respect of Late Night Refreshment and the hours the premises are to open to public: -

| | |
|-------------------|-------------------|
| Sunday & Thursday | 2300 – 0230 hours |
| Friday & Saturday | 2300 – 0330 hours |

7. Non Standard hours

The application applies for 'non-standard' hours as follows: -
Bank Holidays & New Years Eve 2300 – 0330

8. Removal of Existing Conditions

The application does not request to remove any of the existing conditions.

9. **Summary of Representations**

A copy of the representations can be found within the background papers.

West Mercia Police

Have made representation in relation to the application regarding the promoting of the licensing objective of the prevention of crime and disorder.

In brief they request that in order to promote the licensing objective of 'the prevention of crime and disorder' that the terminal hour remains at 0130 hours.

Environmental Health

Environmental Health Officers have made representations in relation to the application. This representation addresses the licensing objective of Public Nuisance and comments upon the impact this may have on local residents, as well as the impact on street cleaning.

10. **Issues for Clarification**

This Authority has requested clarification on particular points from the party shown: -

The Police

Have been requested to provide information on the effect that the current 1.30 am closure time has had on the prevention of crime and disorder.

11. **Herefordshire Council Licensing Policy**

In making its decision the committee will be obliged to have regard to its own policy, the DCMS guidance and have regard to all documents submitted in respect of the application.

12. **Options: -**

It is for the committee to take such steps below as it considers necessary for the promotion of the licensing objectives:

- Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003.
- Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it necessary for the promotion of the licensing objectives and add mandatory condition set out in the Licensing Act 2003.
- 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 premise supervisor
- To reject the application.

13. Background Papers

- Police Comments
- Environmental Health & Trading Standards Comments
- Application Form
- Copy of current premises licence
- Location Plan

Background papers are available for inspection in the Council Chambers, Brockington, 35 Hafod Road, Hereford, HR1 1SH 30 minutes before the start of the hearing.

NOTES**Guidance issued under section 182 of the Licensing Act 2003, Section S18(7)****Relevant, vexatious and frivolous representations**

- 5.73 A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives....
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The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness....

Schedule 2 of the Licensing Act 2003 states: -

The provision of late night refreshment

- 1 (1) For the purposes of this Act, a person "provides late night refreshment" if-
- (a) at any time between the hours of 11.00 p.m. and 5.00 a.m., he supplies hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises, or
 - (b) at any time between those hours when members of the public, or a section of the public, are admitted to any premises, he supplies, or holds himself out as willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises

Licensing Authorities power to exercise substantive discretionary powers.**The British Beer and Pub Association (2) The Association of Licensed Multiple Retailers (3) The British Institute of Inn keeping V Canterbury City Council.**

Contesting the validity of the Licensing policy that asks for certain requirements before the application has been submitted. In the summing up the Judge states; The scheme of the legislation is to leave it to applicants to determine what to include in their applications, subject to the requirements of Section 17 and the Regulations as to the prescribed form and the inclusion of a statement of specified matters in the operating schedule. An applicant who makes the right judgement, so that the application gives rise to no relevant representations, is entitled to the grant of a licence without the imposition of conditions. The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision – making function under section 18 (3) is engaged.