

# Regulatory Sub Committee

Date: **Wednesday, 5th December, 2007**

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Time: **9.30 a.m.**

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

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

*For any further information please contact:*

*Ricky Clarke, Democratic Services Officer, Tel:  
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E-mail: [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk)*

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**County of Herefordshire  
District Council**



# AGENDA

## for the Meeting of the Regulatory Sub Committee

To: Councillors SPA Daniels, P Jones CBE and R Mills

	Pages
<b>1. ELECTION OF CHAIRMAN</b> To elect a Chairman for the hearing.	
<b>2. APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
<b>3. NAMED SUBSTITUTES (IF ANY)</b> To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
<b>4. DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
<b>5. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE CASTLE LODGE HOTEL, WILTON, ROSS-ON-WYE, HR9 6AD.'</b> To consider an application for variation of the premises licence in respect of the Castle Lodge Hotel, Wilton, Ross-on-Wye, HR9 6AD.	1 - 6



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- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- 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.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

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The meeting venue is accessible for visitors in wheelchairs.

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- The nearest bus stop to Brockington is located in Old Eign Hill near to its junction with Hafod Road. The return journey can be made from the same bus stop.

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## **COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

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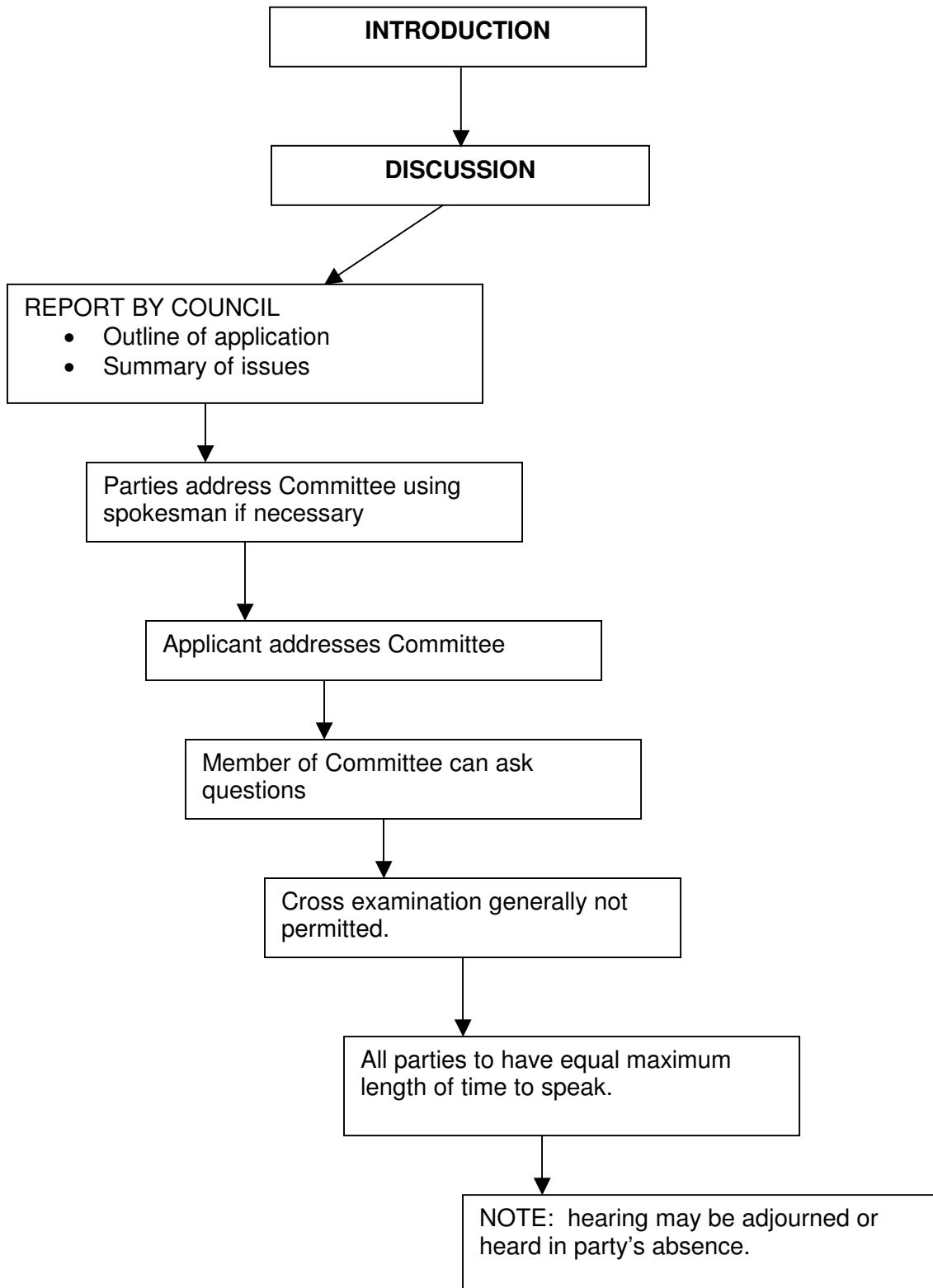
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## LICENCING HEARING FLOW CHART





**APPLICATION FOR VARIATION OF A PREMISES LICENCE AT 'THE CASTLE LODGE HOTEL, WILTON, ROSS ON WYE, HR9 6AD.' - LICENSING ACT 2003**

**Report By: Head Of Environmental Health And Trading Standards**

**Wards Affected:**

Ross-on-Wye West

**1. Purpose**

To consider an application for a variation of a premises licence in respect of 'The Castle Lodge Hotel, Wilton, Ross on Wye, HR9 6AD.'

**2. Background Information**

Applicant	<b>Juan Carlos FELICES</b>	
Solicitor	<b>T A Matthews</b>	
Type of application: <b>Variation</b>	Date received: <b>18/10/07</b>	28 Days consultation <b>14/11/07</b>

The advertisement for the premise has been seen and accepted.

**3. Variation Application**

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

**4. Summary of Application**

The licensable activities applied for are: -  
 Live Music  
 Recorded Music  
 Provision of facilities for making music  
 Provision of facilities for dancing  
 Provision of late night refreshment  
 Supply of Alcohol

5. The variation to the licence if granted would only be used between 15th November and 31st December, annually.

6. The following hours have been applied for in respect of Live Music, Recorded Music, Provision of facilities for making music and dancing (*Indoors*)

All days of the week                      1100 – 0230

7. The following hours have been applied for in respect of the Provision of Late Night Refreshment and the supply of *alcohol (Both on and off premise)*:

Monday to Saturday                      2300 – 0230  
 Sunday                                              2230 – 0230

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Further information on the subject of this report is available from Suzanne Laughland, Licensing Manager on (01432) 261675

8. The premise to be open to the public for a further 30 minutes after these times.

9. **Current Licence**

The premise is currently authorised for all the above activities following the conversion of the existing licences upon commencement of the Licensing Act 2003.

The current activities and hours authorised are: -

For the provision of alcohol and late night refreshment:

On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10 a.m. to 11 p.m.

On Sundays, other than Christmas Day or New Year's Eve, 12 noon to 10.30 p.m.

On Good Friday, 12 noon to 10.30 p.m.

On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

Alcohol may be sold or supplied [for one hour following the hours set out above and] [on Christmas day, between 3 p.m. and 7 p.m.] to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by such a person in that part of the premises as an ancillary to his meal. For other purposes or in other parts of the premises the hours set out above shall continue to apply.

For the provision of Entertainment:

Mondays to Saturdays 1100 – 2330 hrs

11. **Non Standard hours**

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

12. **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 in relation to the application.

**Environmental Health**

The Environmental Health Officer has made a representation in relation to the application. This representation addresses the licensing objectives of Public Safety, and the Prevention of Public Nuisance.

In respect of Public Safety she has requested 2 conditions.

In respect of Public Nuisance she has requested a further 6 conditions.

Of note is condition 2.1 and 2.2 which requests a terminal hour of 0100 hours in respect of amplified music and supply of alcohol.

**Fire Authority.**

The fire authority has no comment to make in relation to the application.

**Interested Parties.**

The Local Authority has received seven (7) letters of representation in respect of the application, from local residents.

The concerns relate to:

- Prevention of Crime & Disorder
- Public Safety
- Prevention of Public Nuisance

**13. Issues for Clarification**

This Authority has not requested clarification from the applicant at this time.

**14. Committees Responsibility**

The committee are responsible for promoting the four licensing objectives.

In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- The steps that are necessary to promote the licensing objectives;
- The representations (including supporting information) presented by all parties;
- The Guidance issued to local authorities under Section 182 of the Licensing Act 2003
- Our own statement of Licensing Policy.

**15. 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.

**16. Background Papers**

- a. Public Representation
- b. Environmental Health & Trading Standards Comments
- c. Application Form
- d. Location Map

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

**NOTES****HEARINGS**

9.24 As a matter of practice, licensing authorities should seek to focus the hearing on the steps needed to promote the particular licensing objective which has given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or interested party may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.

**RELEVANT, VEXATIOUS AND FRIVOLOUS REPRESENTATIONS**

9.8. 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. For example, a representation from a local businessman which argued that his business would be commercially damaged by a new licensed premises would not be relevant. On the other hand, a representation that nuisance caused by the new premises would deter customers from entering the local area and the steps proposed by the applicant to control that nuisance were inadequate would be relevant. There is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations, and in fact this would not be possible for new premises. Further information for interested parties about the process for making representations is available in “Guidance for interested parties: Making representations” which can be found on the DCMS website.

9.9 The “cumulative impact” on the licensing objectives of a concentration of multiple licensed premises may also give rise to a relevant representation when an application for the grant or variation of a premises licence is being considered, but not in relation to an application for review which must relate to an individual premises.

9.10 It is for the licensing authority to determine whether any representation by an interested party is frivolous or vexatious 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. An interested party who is aggrieved by a rejection of their representations on these grounds may challenge the authority’s decision by way of judicial review.

9.11. Licensing authorities should not take decisions on whether representations are relevant on the basis of any political judgment. This may be difficult for ward councilors receiving complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the subcommittee before any decision is taken that necessitates a hearing. Any ward councilor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.

9.12 The Secretary of State recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it. If it then emerged, for example, that the representation should not be supported, the licensing authority could decide not to take any action in respect of the application.

### **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.

