

AGENDA

Regulatory Sub Committee

Date: **Friday 19 February 2010**

Time: **10.00 am**

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:

Ricky Clarke, Democratic Services Officer

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Email: rclarke@herefordshire.gov.uk

If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail rclarke@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Regulatory Sub Committee

Membership

Councillor SPA Daniels
Councillor JW Hope MBE
Councillor RC Hunt

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is. A Councillor who has declared a prejudicial interest at a meeting may nevertheless be able to address that meeting, but only in circumstances where an ordinary member of the public would be also allowed to speak. In such circumstances, the Councillor concerned will have the same opportunity to address the meeting and on the same terms. However, a Councillor exercising their ability to speak in these circumstances must leave the meeting immediately after they have spoken.

AGENDA

	Pages
1. ELECTION OF CHAIRMAN	
To elect a Chairman for the hearing.	
2. APOLOGIES FOR ABSENCE	
To receive apologies for absence.	
3. NAMED SUBSTITUTES (IF ANY)	
To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
4. DECLARATIONS OF INTEREST	
To receive any declarations of interest by Members in respect of items on the Agenda.	
5. FULL REVIEW FOLLOWING AN EXPEDITED/SUMMARY REVIEW OF PREMISES LICENCE: BOOTH HALL, EAST STREET, HEREFORD, HR2 2LW.	1 - 6
To consider a full review of the premises licence relating to the Booth Hall, Hereford, following the Initial Expedited Review Hearing called by Kevin Purcell, Superintendent of the West Mercia Constabulary and represented by PC Stephen Gomer Thomas.	
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YOU HAVE A RIGHT TO: -

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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.
- 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.
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HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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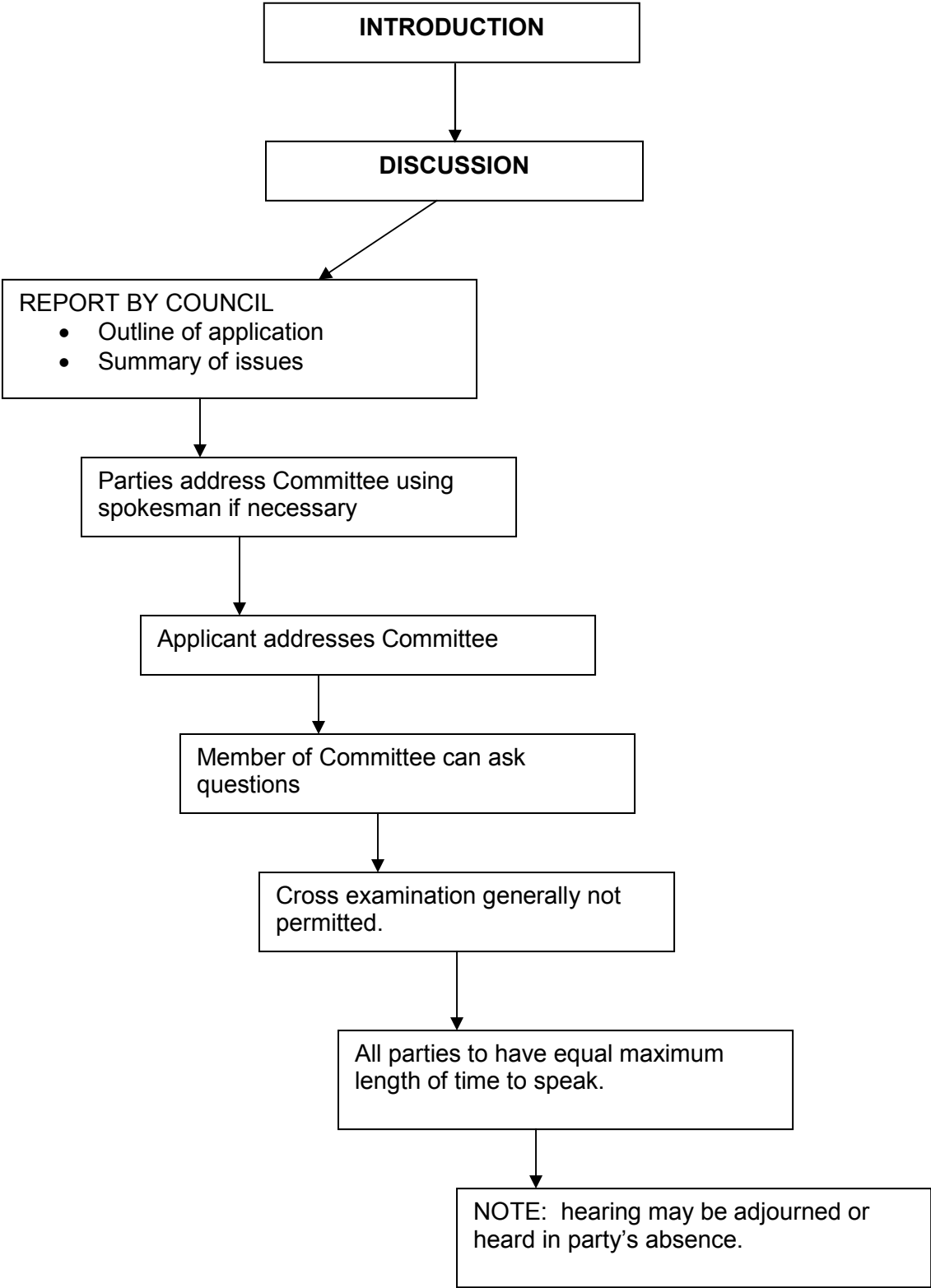
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY SUB-COMMITTEE
DATE:	19 FEBRUARY 2010
TITLE OF REPORT:	FULL REVIEW FOLLOWING AN EXPEDITED/SUMMARY REVIEW OF PREMISES LICENCE: BOOTH HALL, EAST STREET, HEREFORD, HR2 2LW – LICENSING ACT 2003
PORTFOLIO AREA:	HEAD OF ENVIRONMENTAL HEALTH & TRADING STANDARDS ENVIRONMENT & CULTURE

CLASSIFICATION: Open

Wards Affected

Central

Purpose

To consider a full review of the premises licence relating to the Booth Hall, Hereford, following the Initial Expedited Review Hearing called by Kevin Purcell, Superintendent of the West Mercia Constabulary and represented by PC Stephen Gomer Thomas.

Key Decision

This is not a Key Decision.

Recommendation

THAT Sub-Committee determine the application with a view to promoting the licensing objectives in the overall interests of the local community. They should 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, and
- The Herefordshire Council Licensing Policy.

And should also:

- consider what steps should be taken to secure the promotion of the licensing objectives including whether the interim steps should be made permanent

Further information on the subject of this report is available from
Fred Spriggs – Licensing Officer 01432 383542

Key Points Summary

- Application received for an Expedited Review on 26 January 2010.
- Copies of application and certificate sent to the premise licence holder and responsible authorities on 26 January 2010.
- Initial Interim Steps Hearing held on 28 January 2010.
- Premises Licence suspended at Interim Steps Hearing.
- No application received to date for a hearing to make representation against the interim steps.
- Further representation received from the Police.
- Application received to transfer of premises licence.

Options

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- the removal of the designated premises supervisor from the licence;
- the suspension of the licence for a period not exceeding 3 months; and
- the revocation of the licence.

Reasons for Recommendations

Ensures compliance with the Licensing Act 2003 and the Crime & Disorder Act 2006.

Introduction and Background

- 1 The powers to call for an Expedited Review are contained in S.53A of the Licensing Act 2003 by virtue of the Violent Crime Reduction Act 2006. The powers allow:
 - i. The police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and
 - ii. The licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.
- 2 The full review hearing must be concluded within 28 days from the date the review was launched.

Applicant	Kevin Purcell – Superintendent West Mercia Constabulary	
	Represented by: - Stephen Gomer Thomas Police Constable 697	
Premise Licence Holder	Enterprise Inns Plc, 3 Monkspath Hall Road, Solihull, West Midlands, B90 4SJ	
Solicitor	Gosschalks, Hull	
Type of application: Expedited Review	Date received: 26/1/2010	Interim Steps hearing 48 hours 28/1/2010

Full Review	Consultation period concluded on 11 February 2010	
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3 Current Licence

The current licence authorises the following licensable activities during the hours shown: -

An exhibition of a film; An indoor sporting event

Monday-Thursday: 07:00 - 23:30

Friday-Saturday: 07:00 - 01:30

Sunday: 12:00 - 22:30

Any playing of recorded music; other regulated entertainment

Monday-Thursday: 10:00 - 23:30

Friday-Saturday: 10:00 - 01:30

Sunday: 12:00 - 22:30

Sale by retail of alcohol

Monday-Thursday: 10:00 - 23:00

Friday-Saturday: 10:00 - 01:00

Sunday: 12:00 - 22:30

4 Grounds for Review and Interim Steps

The grounds for the review are contained in Appendices (a) and (b) of the background papers.

The Interim Steps Hearing was held on 28 January 2010. The decision of that Committee was:

- That persons named by the West Mercia Police in their application for a summary licence review be prohibited from taking part in the management, control or operations of public house premises namely the Booth Hall, East Street, Hereford, until a further decision of the committee be made, as a result of alleged serious offences being committed on the premises.
- The licence for the said public house premises be suspended forthwith subject to further review.

5 Consultation

Copies of the application and certificate were sent to the responsible authorities.

A notice was displayed at the premises and also at the office of the Licensing Authority at Bath Street.

6 Summary of Representations

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

7 Responsible Authorities

Further representation has been received from the West Mercia Police.

8 Interested Parties

A representation was received from an interested party, namely Enterprise Inns, which the Licensing Authority has decided is not a relevant representation as it does not address one of the four licensing objectives.

9 **Updated Situation**

On Monday 15 February 2010, application was received by the Licensing Authority for the application for the transfer of the premises licence from Mr Crown to Enterprise Inns PLC. The application was for immediate effect and will be granted subject to there being no police representation.

10 Gosschalks Solicitors are representing Enterprise Inns and therefore all the hearing papers and evidence has been served on them.

Key Considerations

11 To consider what action should be taken, if any, to promote the four licensing objectives in accordance with the recommendation.

Guidance issued under Section 182 of the Licensing Act 2003 in respect of reviews states at paragraph: -

11.18 In deciding which of these powers to invoke (*shown within the options*), it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

The attention of the Committee is drawn to the stated case of *Daniel Thwaites Plc v Wirral Borough Magistrates' Court* (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that: -

"Among other things, section 4 of the 2003 Act provides that in carrying out its functions a licensing authority must have regard to guidance issued by the Secretary of State under section 182. The requirement is therefore binding on all licensing authorities to that extent. However, it is recognised that the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and so long as the Guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so. When doing so, licensing authorities will need to give full reasons for their actions. Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken."

The Committee's attention is also drawn to the following stated case:-

The case of *'The Queen on the Application of Bristol Council v Bristol Magistrates' Court*, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL 648859 in which it was said:

'that the licensing authority: Must render what the applicant says into enforceable conditions'

The Committee will therefore have to decide if the condition requested by the police is an enforceable condition which promotes the licensing objectives.

Community Impact

12 It is felt that any decision made will have a minimal impact on the Community as a whole.

Legal Implications

13 Right of Appeal

An appeal may be made within 21 days of the licence holder being notified of the licensing authority's decision to a magistrates' court. An appeal may be made by the premises licence holder, the chief officer of police and/or any other person who made relevant representations.

The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the appeal is disposed of. Any interim steps taken will remain in force over these periods.

Appendices

- 14 a. Application form for an Expedited Review
- b. Superintendent's Certification
- c. Police Representation

Background Papers

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

Licensing Department
Hereford Police Station
Bath Street
HEREFORD
HR1 2HT
Direct Dial 01432 364552



11th February 2010

Our Ref:
Your Ref:

Herefordshire Council
Licensing Department
Council Offices
Bath Street
HEREFORD

Sir / Madam

REF: BOOTH HALL HEREFORD.
REVIEW OF PREMISE LICENCE
LICENSING ACT 2003

On the 26th January 2010 The West Mercia Police, called for an expedited review of the premise licence for the Booth Hall public house, on the following grounds.

The Booth Hall public house is a busy premise, located in the centre of Hereford City.

The building is owned by Enterprise Inns, and is leased to Raymond John CROWN.

Raymond John CROWN is the premise licence holder and DPS.

Raymond John CROWN is in the process of selling the lease to (name withheld)

Since December 2009 , (name withheld) has operated the premise as a manager with the intention of transferring the premise licence into his name once the sale of the lease has been completed.

Since December 2009 , (name withheld) has been in control of all aspects of the operation of the premise.

(2nd name withheld) works at the premise, and is on trial to manage the premise on behalf of (name withheld) when the premise licence is transferred to him.

On Friday 22 January 2010, a 16 and 17 year old female attend the premises and during the course of the evening are served with, and consume alcohol on the premise.

www.westmercia.police.uk Non-emergency: 0300 333 3000
Policing Herefordshire, Shropshire, Telford & Wrekin and Worcestershire



It is alleged that when the premise closed, that the two females aged 16 and 17 remain at the premise in company with (name withheld), and consume further alcohol

It is alleged that the two females are drunk.

It is alleged that between 0100 and 0800 in the premise that the two females were the victims of a very serious offence and that the offenders were (both names withheld).

(both names withheld) have been arrested on suspicion of those offences and are currently on police bail.

It is the view of the West Mercia Police that the alleged offences, are of a serious nature and that it is necessary to promote the licensing objectives, and in particular that prevent of crime and the protection of children from harm , that neither (both names withheld) should be allowed any involvement on the management , control or operations of the Booth Hall Public House

The West Mercia Police would seek the licensing authority to take the following interim steps to promote the licensing objectives.

The modification of the premise licence to include the two following conditions.

1 That (name withheld) is prohibited from taking any part in the management, control or operations of the premise, whilst under investigation for the alleged offences of the 23rd January 2010.

2 That (2nd name withheld) is prohibited from taking any part in the management, control, or operations of the premise , whilst under investigation for the alleged offences of the 23rd January 2010.

These are the minimum conditions the West Mercia Police would seek in the expedited review of the premise licence.

The licensing panel of the councils regulatory committee heard this application on the 28th January 2010, and were informed of the full nature of the alleged offence.

At the hearing they were also informed that the West Mercia Police were in possession of unconfirmed intelligence reports concerning the use of illegal drugs on the premise both by or with the knowledge of (name withheld) and person employed by him in the management of the premises.

The committee were informed that this intelligence was still being developed with the intention of the West Mercia Police to take further action.

The committee in its decision noticed imposed the two conditions requested by the West Mercia Police, and also suspended the licence subject to a further review.

The decision to suspend the licence, in addition to the conditions requested by the West Mercia Police, was taken, to ensure the conditions requested were enforceable.

The decision notice was served on the premises at about 1230 hours on the same day by officers from Herefordshire Council licensing department and the West Mercia Police. The notice was served on an individual who was acting as the manager, and who was subject to the unconfirmed intelligence reports concerning the use of drugs.

The West Mercia Police are not aware of any significant changes to the control of the premise licence since the expedited review, the premise licence is still held by Raymond CROWN who is still the DPS.

The West Mercia Police are aware that Raymond CROWN still wishes to sell the lease, or relinquish the lease.

It is the view of the West Mercia Police that because no significant changes to the circumstances or operation of the premise have occurred since the hearing on the 28th January 2010 that an application for the same conditions as requested at the expedited review should be requested at the full review.

The West Mercia Police are how ever, fully aware that the enforcement of those conditions would prove impractical, as evidence by the management on the premise when the expedited review notice was served.

The West Mercia Police would therefore requested that the licensing panel of Herefordshire Councils regulatory committee revoke the premise licence issued to the Booth Hall public house, in order to promote the licensing objectives of the prevention of crime and the protection of children from harm.

S G Thomas
PC697

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