

# Agenda

## Licensing sub-committee

Date: **Friday 16 June 2017**

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Time: **10.00 am**

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Place: **Council Chamber, The Shire Hall, St Peter's Square,  
Hereford, HR1 2HX**

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

For any further information please contact:

**Caroline Marshall, Governance Services**

Tel: 01432 260249

Email: [caroline.marshall3@herefordshire.gov.uk](mailto:caroline.marshall3@herefordshire.gov.uk)

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If you would like help to understand this document, or would like it in another format, please call Caroline Marshall, Governance Services on 01432 260249 or e-mail [caroline.marshall3@herefordshire.gov.uk](mailto:caroline.marshall3@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the Meeting of the Licensing sub-committee**

## **Membership**

Councillor DW Greenow  
Councillor PGH Cutter  
Councillor FM Norman

## Agenda

	<b>Pages</b>
<b>1. APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
<b>2. NAMED SUBSTITUTES (IF ANY)</b> To receive any details of Members nominated to attend the meeting in place of a Member of the committee.	
<b>3. DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the agenda.	
<b>4. STREET TRADING APPEAL: SITE AT UNIT 19 LOWER ROAD INDUSTRIAL ESTATE, LEDBURY, HR8 2DJ</b> To consider an appeal against a decision to refuse a street trading consent application for a site at Unit 19, Lower Road Industrial Estate, Ledbury, HR8 2DJ.	9 - 44
<b>5. REVIEW OF A PREMISES LICENCE FOLLOWING AN EXPEDITED / SUMMARY LICENCE REVIEW IN RESPECT OF: JALSAGAR RESTAURANT, 60 ST OWENS STREET, HEREFORD, HR1 2PU - LICENSING ACT 2003</b> To consider an application for a review of a premises licence following an expedited / summary licence review in respect of: Jalsagar Restaurant, 60 St Owens Street, Hereford, HR1 2PU.	45 - 88



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**SHIRE HALL, ST PETERS SQUARE, HEREFORD HR1 2HX.**

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## Licensing Hearing Flowchart









<b>Meeting:</b>	<b>Licensing sub-committee</b>
<b>Meeting date:</b>	<b>16 June 2017</b>
<b>Title of report:</b>	<b>Street Trading Appeal: Site at Unit 19 Lower Road Industrial Estate, Ledbury, HR8 2DJ</b>
<b>Report by:</b>	<b>Licensing officer – street trading</b>

## Classification

Open

## Key decision

This is not an executive decision.

## Ward affected

Ledbury West

## Purpose

To consider an appeal against a decision to refuse a street trading consent application for a site at Unit 19, Lower Road Industrial Estate, Ledbury, HR8 2DJ.

## Recommendation

**THAT:**

**The sub-committee determine the appeal with a view to promoting the objectives of regulating street trading, as outlined in the street trading protocol (Appendix A)**

## Options

- 1 To refuse the appeal – for the same reasoning the original application was turned down, or for other reasoning.
- 2 To allow the appeal and approve a street trading consent, along with any specific conditions that may be deemed necessary over and above the standard ones for street

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Further information on the subject of this report is available from  
Kevin Price Licensing Officer – Street Trading on Tel (01432) 260805

trading.

## Reasons for recommendation

3. To ensure compliance with the street trading protocol.

## Key considerations

4. This appeal is set against a history of two virtually identical applications by Mr Ozer or his agent. Both applications were turned down and neither appealed against:

Previous applications:

<b>Applicant</b>	Mr Mehmet Ozer
<b>Basic details of application</b>	Unit 19 Lower Road Industrial Estate, Ledbury Snack Bar Food, Afternoons/Evenings
<b>Date Determined</b>	August 2016
<b>Representations?</b>	Yes, objecting to the application
<b>Decision and summary</b>	Refused: <ul style="list-style-type: none"><li>- Potential negative impact on nearby residences</li><li>- Parking/Highways safety issues</li><li>- No evidence provided of demand for evening facility</li></ul>

<b>Applicant</b>	Mr Mehmet Ozer
<b>Agent</b>	Home Plan Design Services
<b>Basic details of application</b>	Unit 19 Lower Road Industrial Estate, Ledbury Snack Bar Food, Afternoons/Evenings
<b>Date Determined</b>	November 2016
<b>Representations?</b>	Yes, objecting to the application
<b>Decision and summary</b>	Refused: <ul style="list-style-type: none"><li>- Potential negative impact on nearby residences</li><li>- Parking/Highways safety issues</li><li>- No evidence provided of demand for evening facility</li></ul>

5. This appeal is based on the following application::

<b>Applicant</b>	Mr Mehmet Ozer
<b>Agent</b>	One Licensing

<b>Basic details of application</b>	<b>Site:</b> Unit 19 Lower Road Industrial Estate, Ledbury <b>Trading Unit:</b> Snack Bar, 3.6m x 2.1m <b>Product Range:</b> Kebabs, Burgers, Wraps, Salad, Chips, Hot and Cold drinks <b>Days:</b> Monday to Sunday <b>Times:</b> 15:00 to 23:00 hrs
<b>Date Determined</b>	March 2017
<b>Representations received from:</b>	BBLP Highways Officer Police Environmental Health Herefordshire Council Ward Members Ledbury Town Council Local resident (received since application was determined) Amcors Ltd (received since application was determined)
<b>Decision</b>	Refused
<b>Appeal received?</b>	Yes, 13 April 2017

6. To ensure a consistent approach in dealing with street trading applications the protocol document outlines the process for assessing street trading applications.
7. Applications for street trading are dealt with in the first instance by the council's street trading panel, which comprises officers from a range of departments to ensure relevant expertise is sourced. This application was submitted in February 2017 (Appendix B). A report was then produced which included consultative feedback (Appendix C), with the chair of the panel ultimately determining the application in March 2017.
8. A map showing the proposed trading site can be found at Appendix D.
9. Representations were received in relation to this application (Appendix E)
10. The application which is being appealed was turned down for the following reasoning:
  - There are residential properties close by and an evening catering facility at the proposed location was not judged to be suitable by the council.
  - Feedback from the police and the council's environmental health officer was that if consent was granted, it could lead to a concentration of people in that location and an associated increased number of vehicles to use the facility. This could cause a nuisance to nearby residential properties, from the negative impact of odours and noise at the times proposed.
  - Furthermore, it was noted there was very limited support for this venture from the residents consulted and given there is no clear indication that the customer base would be drawn from the locality, then it was considered that it was likely that the customer base would be drawn from further afield, thereby giving rise to the issues highlighted by both the police and environmental health.

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Further information on the subject of this report is available from  
Kevin Price Licensing Officer – Street Trading on Tel (01432) 260805

11. In terms of the grounds for the appeal submitted (Appendix F), the following points are considered relevant:
- i) With regard to the residents, notification carried out by One Licensing, subsequent information provided to the council indicates there were only 2 valid responses out of the 20 houses they surveyed, both of which opposed the siting of the snack bar. A further resident from within the zone of houses notified of the application has since e-mailed the council opposing the idea of a snack bar.
  - ii) Amcor Flexibles Ltd who are a large factory operation at the end of the road where the proposed unit would be sited have sent an e-mail since the application was determined. They have a range of concerns including those relating to an increase in traffic and parking issues.
  - iii) Should anti-social behaviour arise as a result of the snack bar trading, then the applicant would only be able to deal with them properly by involving the police and/or council which presents a resource issue and difficulties in remedying the situation in a timely manner.
  - iv) The application being ultimately turned down was based on the opinion and judgement from the professionals engaged in these fields. The street trading protocol states an application may/will be turned down if *“there is likely to be resultant nuisance to members of the public, residents and local businesses due to the likely noise, smell, litter, disturbance or other problems which may be caused”*.
  - v) With regard to the request to the three month trial suggested by One Licensing, legal advice received by the council is that this has no advantages over the usual twelve month consent period in terms of the potential to revoke the consent, should problems arise. The council would need a reasonable amount of reliable evidence to revoke a consent however long the licensable period e.g substantiated complaints to the police and/or council. This means revocation of the consent would take a period of time to implement, meaning problem issues could continue until trading ceased.
12. Planning services have indicated that planning permission would also be required in addition to a street trading consent to operate a snack bar at this location.
13. The council already licence another snack bar to operate elsewhere on the industrial estate during the daytime (until 5pm). An application by that trader to operate into the evening was turned down by the council in March 2015.

## **Community impact**

14. Should the appeal be allowed and a street trading consent granted, then based on the representations received, the potential for adverse impacts exist from noise, anti-social behaviour, parking and traffic issues.
15. Should the appeal be allowed, it would provide an evening fast food option away from fixed premises establishments found in the town centre. It should be noted though that the proposed trading site is within walking distance of Ledbury town centre where the same product types can be found at several outlets.

## **Equality duty**

16. There are no equality issues in relation to the content of this report.
17. This report has human rights implications for both the applicant and the residents from the local neighbourhood. Should the appeal be rejected or upheld, this may have financial implications for a licensee's business and livelihood and/or may have impact upon the day to day lives of residents living in close proximity to the proposed trading site.
18. Article 8(i) of the European Convention of Human Rights provides that everyone has the right to respect for his/her private and family life and his/her home (which includes business premises). This right may be interfered with by the council on a number of grounds including the protection of rights and freedoms of others. The First Protocol – Article 1 – also provides that every person is entitled to the peaceful enjoyment of his possessions and shall not be deprived of his possessions except in the public interest and conditions provided for by law. Members must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.

## **Financial implications**

19. If the appeal was allowed and a consent granted, there would be a cost to the applicant in recognition towards the department's overall cost of administering and enforcing the street trading scheme in the county.

## **Legal implications**

20. The legal framework for the issue of street trading consents is contained part 3 and schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
21. A 'street' for street trading purposes can also include some areas of private land, as is the case here.
22. The council can grant a street trading consent if they think fit. In the event the council choose to grant a consent, they can attach such conditions that they consider reasonably necessary. A consent cannot be granted for a period in excess of 12 months. There is no statutory right of appeal.
23. Two external representations regarding the proposed venture were received by the council since the original application was determined. These were received without any further consultation being carried out and are ruled admissible for the purposes of this hearing.

## **Risk management**

24. There is little risk associated with the decision at this time. This right of appeal is over and above the legal obligations on the authority, with no automatic right of appeal required to be in place for a street trading consent scheme.

## **Consultees**

25. None

## **Appendices**

Appendix A - Herefordshire council street trading protocol

Appendix B - Completed application form

Appendix C - Application report to street trading panel

Appendix D - Map showing proposed trading location

Appendix E - List of representations received

Appendix F - Appeal covering letter from One Licensing on behalf of the applicant

## **Background papers**

None identified.

## **STREET TRADING PROTOCOL**

In 1998 Herefordshire Council adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, enabling street trading to be regulated within the county. Pavement Cafes are controlled with Highways Amenity Licences, issued under the auspices of Section 115E of the 1980 Highways Act.

This protocol gives information as to the way street trading regulation and its associated functions are administered and managed in the county.

### **1. Aspirations for Street Trading**

It is the aim of the Council to encourage on street trading and pavement cafe activity where possible and appropriate to assist in providing a quality ambience in the streetscene, through a range of diverse quality trading activity. Historically, the national *Portas Review* highlights the need to encourage entrepreneurial talent and recognises the social benefits of street sales. Such vibrancy is of key importance to ensure an attractive environment in market towns, and in particular High Town, Hereford forming part of the wider improvements to this area through the 'Hereford 2020' initiative. The design and management of prominent streets will aim to maximise trading and exchange in the public realm. The temporary use of streetscapes for trade displays, cafes and temporary events will be encouraged.

Following on from this, the Council will in addition apply the following principles where possible in relation to street trading in the county:

- i) To encourage and promote the use of Fairtrade products.
- ii). To encourage local traders who reside within the county and also the use of locally produced goods and food items.

### **2. Objectives of Regulating Street Trading**

- i) To protect public health and wellbeing through the control of street trading within the county of Herefordshire
- ii) To improve standards of food safety, health & safety and environmental management and enhance the image of the district and streetscene experience
- iii) Ensure that traders operate within the law and act fairly in their dealings with the public.
- iv) Preventing and detecting statutory nuisance and unsafe practices with regard to street trading.

**Applications for street trading consents and highways amenity licences are each considered against a range of criteria as well as on their own merits so that individual circumstances, where appropriate, are taken into consideration.**

### **3. Street Trading Panel - Terms of Reference**

The Council's Constitution and scheme of delegation permits the Chief Executive to delegate powers to the Director of Economy, Communities and Corporate. In turn the Director is authorised to set up an Officer Panel to deal with certain matters relating to street trading and some associated functions.

The current membership of the Street Trading Panel as at Feb 2017 is therefore made up of the following officers:

- Head of Technical and Parking Services – Chair
- Market Services Manager
- Street Trading Licensing Officer
- Representative from Environmental Health
- Economic Regeneration Officer
- Representative of Highways and Transportation (Balfour Beatty)
- Representative from Legal Services
- Technical Support officer – for minute taking only

In addition, a representative of the Hereford City Council attends in an ex-officio capacity, plus a representative from the Hereford Business Improvement District. Other personnel may be invited to join the Panel if considered necessary when dealing with a particular application or issue e.g. from West Mercia Constabulary or other multi agency partners.

Applicants are not permitted to appear in person before the Street Trading Panel. However they do have the right to appeal within 28 days any decision to the Regulatory Sub Committee of the Council, on payment of an appeal fee of £150 and to attend any such appeal.

The Council may/will not consider any subsequent applications for the same site, from the same applicant and/or with the same trading unit and/or on the same occasions, where a decision has already been made, within 6 months of that decision.

Meetings are held as and when required, with some matters dealt with by written procedure. Minutes of each meeting are taken and approved by the Chair, with any decisions taken outside meetings recorded in a 'decision log' document. The Chair or his nominated deputy (an equivalent Head of Service), as authorised officer has the final say with regard to decisions made.

#### **A. Determining Applications**

Each application or matter will be carefully discussed and debated against the objectives set out above, and the more detailed criteria set out below. The role of the Panel is to assist the Chair in reaching decisions and he/she will give due consideration to the points raised.

The Panel members judge applications on their individual merits but use a broad range of criteria to assess suitability or otherwise. These can include:

**i) Suitability of the proposed applicant** – e.g. The Council may/will decline a grant or renewal application if:

- There are previous relevant convictions relating to the applicant, including those related to Food Safety or Health and Safety.
- Failure on any previous occasion to pay street trading consent fees within agreed timescales.



- The applicant is not at least 18 years of age.
- The applicant is not legally able to live and work in the UK.

**ii) Suitability of the proposed trading location** – e.g. The Council may/will decline a grant or renewal application if:

- The proposed location is named within the designated 'Prohibited Streets' list.
- There is not enough space for the applicant to trade in the manner proposed without causing undue interference or inconvenience to persons using the street.
- There are already enough traders trading in the vicinity (from shops/outlets or other stalls) in the goods which the applicant desires to trade.
- There is undue concentration of traders trading in the street or area in which the applicant desires to trade.
- There is likely to be resultant nuisance to members of the public, residents and local businesses due to the likely noise, smell, litter, disturbance or other problems which may be caused.

**iii) Suitability of the proposed trading times:**

- The trading times should reflect the expectations and requirements of the locality.
- Permitted hours will normally be between 7:30am and 8.00pm, though this may be amended in appropriate circumstances.
- Should an application be received for late night/overnight trading for refreshments, then this will only be considered in conjunction with the Licensing Department who would require a Premise Licence application to be made.

**iv) Suitability of the proposed trading unit/stall/furniture:** e.g. The Council will decline a grant or renewal application if:

- The size, nature or appearance of the proposed stall (and any associated equipment) is deemed inappropriate for the proposed location in terms of visual amenity and/or public or highway safety.

**v) Suitability of the proposed product range:** e.g. The Council may/will decline a grant or renewal application if:

- There are already enough traders trading in the vicinity (from shops/outlets or other stalls) in the goods which the applicant desires to trade.
- The proposed products to be sold are considered unsuitable for the surrounding area in terms of potential odours, potential pavier staining, potential waste/litter issues.

## **B. Fees**

The fees charged by the authority for consents/licences to trade should cover the cost of administering, managing and enforcing the service. Fees are determined for each pitch on an individual basis using an approved system taking certain factors into account. The final fee level though is set by the Markets, Fairs and Street Trading Department.

### **C. Offences**

Under the Local Government (Miscellaneous Provisions) Act 1982, there are a number of prescribed offences under which enforcement can be taken. In addition, breaches of the standard trader terms and conditions can also result in appropriate enforcement action which could range from a written warning or caution, revocation of consent or even prosecution. The Street Trading Panel will consider any such offences and make recommendation with regard to enforcement action.

Enforcement action will be taken in accordance with the guidelines contained within the Council's enforcement and prosecution policies. Any decision to prosecute would be taken after consultation with and authorisation from the appropriate designated officer.

### **D. Renewal of Consents and Licences**

Each Consent runs for a maximum period of one year, with the Street Trading Panel assessing renewal requests. Thereafter applications must be renewed in accordance with the standard council procedure. To ensure traders have a period of security with regard to business planning/investment, the Council will normally approve a renewal unless there are fees owing, there have been breaches of trading terms and/or conditions or there are other circumstances deemed reasonable by the Council not to permit trading.

NB – The preceding list is not intended to be exhaustive and the Panel may consider other relevant criteria as appropriate, plus representations from consultees such as Herefordshire Council Local Ward Member(s), plus the relevant Town/City Council.

There is no automatic right of appeal against a decision of the Street Trading Panel. However the Council has in place an appeal mechanism through its Regulatory Committee. Any appeal to the Regulatory Committee must be accompanied with a fee (currently £150, although this will be subject to annual review). This assists in ensuring that only genuine cases are heard.

## **4. Application Process**

- i) For Street Trading, the application procedure is laid down in the 'process flow chart' document EMFST ST 2 which is available from the Council website. An application for a street trading consent must be made on the Council's approved application form EMFST ST 4.

*Current forms in use for Street Trading are listed below and should be considered in conjunction with this document:*

<b>EMFST ST 2</b>	<b>STREET TRADING APPLICATION PROCESS CHART</b>
<b>EMFST ST 3</b>	<b>STREET TRADING INFORMATION &amp; GUIDELINES</b>
<b>EMFST ST 4</b>	<b>STREET TRADING APPLICATION FORM</b>
<b>EMFST ST 5</b>	<b>STREET TRADING TERMS &amp; CONDITIONS</b>

- ii) For Highways Amenity Licences, the application procedure is laid down in the 'process flow chart' document EMFST SF 2 which is available from the Council website. An application for a highways amenity licence must be made on the Council's approved application form EMFST SF 4 or electronically via the appropriate website.

*Current forms in use for Highways Amenity Licences are listed below and should be considered in conjunction with this document:*

<b>EMFSF SF 2</b>	<b>HIGHWAYS AMENITY LICENCE APPLICATION PROCESS CHART</b>
<b>EMFST SF 3</b>	<b>HIGHWAYS AMENITY LICENCE INFORMATION &amp; GUIDELINES</b>
<b>EMFST SF 4</b>	<b>HIGHWAYS AMENITY LICENCE APPLICATION FORM</b>

New applications for consents/licences will usually take a minimum of 30 days to be considered on receipt of submitted forms but can take up to 60 days.

## **5. Use of High Town, Hereford for Promotional Use**

The Council is committed to creating a vibrant city centre that offers a whole day experience, which external event and bookings in High Town can contribute to. Furthermore, with the planned refurbishment of the city centre, it is envisaged this will be a boost to the evening economy. Being 'alive after five' should encourage daytime events extending in duration or see standalone evening events in their own right.

For hire of High Town Space, the application procedure is laid down in the 'process flow chart' document EMFST HS 2 which is available from its website. An application for hiring space in High Town must be made on the Council's approved application form EMFST HS 5.

*Current forms in use for Highways Amenity Licences are listed below and should be considered in conjunction with this document:*

<b>EMFSF HS 2</b>	<b>HIRE OF HIGH TOWN SPACE APPLICATION PROCESS CHART</b>
<b>EMFST HS 3</b>	<b>HIRE OF HIGH TOWN SPACE INFORMATION &amp; GUIDELINES</b>
<b>EMFST HS 5</b>	<b>HIRE OF HIGH TOWN SPACE LICENCE APPLICATION FORM</b>

Bookings are designated Commercial, Not for Profit and Charitable organisations. The Licensing Officer for Street Trading has delegated powers to approve such bookings, with charges dependent on amount of space taken up and the nature of the organisation making the booking.

With regard to the hire of the Council's exhibition trailer, this facility is not available to Political Parties or any group/individual seeking to run a promotion or activity that runs contrary to Council policies and consultation programmes. Furthermore, the Council reserves the right to refuse the hire of its trailer to any other group/individual as it so wishes. Political Parties are limited to no more than three booking dates per party in any one pre-election period (dates specified by Electoral Services). This is to ensure all parties have a reasonable opportunity to book space and to leave dates free for the usual wide variety of other bookings and events.



**STREET TRADING APPLICATION FORM**

**Section One – About You**

- Surname: **Ozer**
- Title: **Mr**
- Address:
- Date of Birth:
- Are you VAT Registered?  **No**
- Forenames:
- Tel. Number (Home): **None**
- Mobile Numb
- E-mail: **contact@onelicensing.co.uk**
- Fax Number **None**
- Name of Business/Trading as:
- .....
- VAT Registration No:

Do You Have The Legal Right To Live and Work in the UK? **Yes**

**Section Two – Where Will You Be Located**

- Street/Area for which consent is required: **Lower Road, Ledbury**
- Precise location: **On the fourcourt of former Rowley Plastic. The site is now operated as M&M Car Wash. Permission has been granted by land owner for Mr Ozer to use the site during the times applied for.**

Articles to be sold or offered for sale

(If available attach a copy of the menu or price list)

**Kebabs, burgers, wraps, salads, chips, hot drinks & cold drinks.**

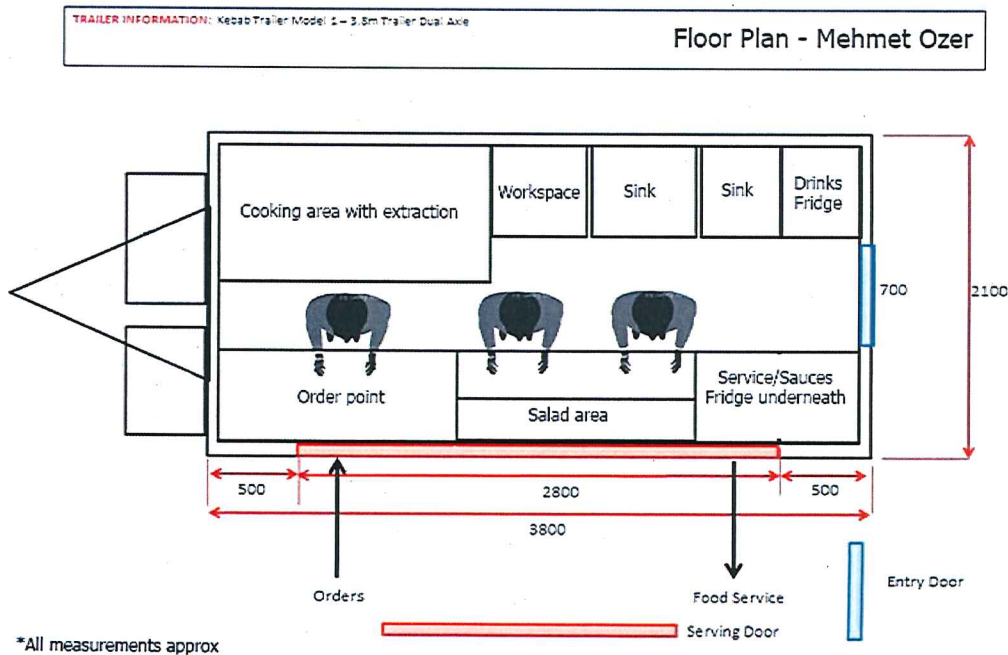
## Section Three – What Will Your Unit Look Like

- Please attach a photograph of mobile unit/stall and include exterior measurements:



Height: 2.1m (approx)      Width: 2.1 metres (approx)      Length: 3.6 metres (approx)

- Attach a photograph of the interior of the unit/stall to include internal measurements:



## Section Four – Who Are Your Team

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- |                      |                      |
|----------------------|----------------------|
| ▪ Name(s) of staff   | Date of Birth(s)     |
| <input type="text"/> | <input type="text"/> |

**\*No other staff as of time of application until consent is granted. Further details will be provided should consent be granted.**

*Should there be a change or addition to the above mentioned list it is the responsibility of the consent holder to keep this office informed.*

## Section Five – Additional Information

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- In support of your application we require a brief history (relevant to your application) of your experience and the reason why you wish to apply. (You may attach a copy of your Business Plan or Portfolio)

I have been involved in the outdoor catering business for ten years now. During those ten years I have built up a very loyal customer base at numerous sites that I currently operate around the county of Gloucestershire. I use regular suppliers of high quality food ingredients.

I wish to apply for this site in Lower Road, Ledbury as currently there are limited takeaway food outlets which suit everyones requirements.

Since my previous application which was refused I have requested the assistance of a Licensing Consultancy (One Licensing) who on my behalf have canvassed local residents in a bid to accomodate any concerns that they may have, please see there supporting letter attached with this application.

I fully appreciate that the type of food items that I am providing may not please everyone but I wish to offer a variety of food for customers to enojoy, and am willing to work with residents to ensure I am well accepted in the area.

My catering unit will have CCTV installed and any incidents of anti-social behaviour will be reported to the local Police and an incident log will be kept.

*If there is insufficient space, please continue on a separate page.*

## Section Six – What Days And Times Do You Intend To Trade

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- Days and times of trading:

Monday	YES	PM 15:00	PM 23:00
Tuesday	YES	PM 15:00	PM 23:00
Wednesday	YES	PM 15:00	PM 23:00
Thursday	YES	PM 15:00	PM 23:00
Friday	YES	PM 15:00	PM 23:00
Saturday	YES	PM 15:00	PM 23:00
Sunday	YES	PM 15:00	PM 23:00

## Section Seven – Fuel Usage

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- Do you intend to use LPG cylinders? (please see conditions)

NO

## Section Eight – Disclosure

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- If you have been convicted of any offence, you must disclose it unless it is 'spent' , under the Rehabilitation of Offenders Act, 1974. **N.B.** Non-disclosure will be a criminal offence under Schedule 4, Section 10 of the Local Government (Miscellaneous Provisions) Act 1982.

**I do not have any convictions**



## Section Nine – Acceptance

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I confirm that I am fully conversant with the Street Trading Consent conditions.

Signature:

Date: 07/02/2017

In support of this application, please attach the following:

- two passport photographs (proof of identification);
- and a copy of a recent utility bill (proof of address).

**WHEN COMPLETED PLEASE FORWARD THIS FORM TO:**

**LICENSING OFFICER - STREET TRADING  
HEREFORDSHIRE COUNCIL  
MARKETS, FAIRS AND STREET TRADING SECTION  
UNIT 39  
THREE ELMS TRADING ESTATE  
HEREFORD  
HR4 9PU**

Please be aware that when a trader vacates a pitch, any person purchasing a trading unit does NOT automatically have the right to take over that pitch. That person will need to apply for and obtain a Street Trading Consent in advance.

Note: Any person who, in connection with an application for Street Trading consent, makes a false statement which he/she knows to be false, in any material respect or which he/she does not believe to be true, shall be guilty of an offence. Any person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1000).

**DATA PROTECTION ACT:**

The information on the application form is required to process your application and to administer this service. It may contain personal data about you. As the data controller of that information, Herefordshire Council is registered under the Data Protection Act 1998 for the purpose of processing personal data in the performance of its legitimate business. Any information held by the Council will be processed in compliance with the eight principles of the Act. Where necessary we may share this personal data with partner organisations for the protection of public funds administered which may include the prevention or detection of fraud and auditing purposes.

Further information relating to your rights under the Data Protection Act can be found on our website.







	<b>STREET TRADING PANEL</b>
<b>DATE:</b>	<b>MARCH 2017</b>
<b>TITLE OF REPORT:</b>	<b>STREET TRADING CONSENT APPLICATION, MR MEHMET OZER</b>  <b>SITE: LOWER ROAD INDUSTRIAL ESTATE, LEDBURY</b>
<b>REPORT BY:</b>	<b>LICENSING OFFICER</b>

## **Purpose**

To inform the Street Trading Panel of a Street Trading Consent application received, in order that a decision be made whether to enable the applicant to place a hot food trading unit during the evening period at Lower Road Industrial Estate, Ledbury.

## **Key Points Summary**

- A mobile catering unit wishes to sell hot food during the afternoon/evenings (3pm to 11pm), 7 days a week.
- Council already licence one street trading catering unit on the estate during daytime hours, until 5pm. This trader was refused permission to extend his trading hours into the evening in March 2015.
- Panel refused an application for a mobile catering unit in centre of Ledbury for evening trade back in 2013 and also on Lower Road Industrial Estate for evening trade back in 2014.
- **Mr Ozer had a street trading consent application turned down for this specific site in August 2016 and another approx. 15m away from in November 2016.**

## **Introduction and Background**

### **Summary of Application:**

Applicant: Mr Mehmet Ozer

Area applied for: 'Rowley Plastics Site', Lower Road Industrial Estate, Ledbury

Product Range: Hot and Cold food and drink, consistent with that found in snack bars generally

Times and Days Applied for: 3pm to 11pm, 7 days a week

## Summary of Consultees and Representations:

Cllr Holton, Ledbury Ward Member:

*"This is not suitable for Ledbury or required as we have several late night eating establishments on the high street which are covered by CCTV. The Industrial Estate is surrounded by residential area and families."*

Cllr Harvey, Ledbury Ward Member:

*"Thank you for this notification. I am not supportive of the location of a street vendor at this location. Ledbury town centre is in easy walking distance of all residential areas. We have a wide selection of food outlets already in the town centre which are open late into the evening - and my view is that these are sufficient for our needs. I remain of the view that this is unnecessary and intrusive."*

Ledbury Town Council:

*"This application was discussed at last night's Economic Development & Planning Committee meeting. Cllrs expressed concerns, but finally voted that the application could be supported, provided it was on an initial three month trial basis."*

Aris Trezins: Herefordshire Council Environmental Health Officer:

*"I can confirm that I have visited the site and am of the opinion that the new application does not significantly address the concerns of noise, disturbance etc. that formed part of the reasons for the refusal with regard to earlier applications. I would also add that should problems occur the powers available to the Local Authority as regards noise nuisance would not be applicable or largely unenforceable in this situation. My comments therefore remain unchanged from that previously submitted"*

West Mercia Police:

*"We would be concerned about the closing time of 11pm in particular. It could easily become a gathering point, and because of increased traffic to the Industrial Estate that local occupants have not been used to, it could easily be viewed as ASB at this time of night. I don't see anything that changes my original concerns this time around"*

Nick Green  
PS 1954

*"From an ASB point of view I would expect this location to become a problem location – especially during the evening with regards to 'boy racers'. I would suggest my colleague make representations against the application in order to prevent problems occurring."*

Jim Mooney  
Licensing & Harm Reduction Coordinator, WMP

Planning Services have previously indicated that planning permission would be required for this proposed venture.

## **Other information:**

Aldi Supermarkets have had a planning application approved in September 2016 to site a new store at the northern sector of this industrial estate. It may be that this would create additional potential customers to this catering unit through the construction phase after thereafter, though the extent of this is unclear.

One Licensing carried out their own survey with local residents to gauge opinion on the application. A copy of their letter to residents is available as a background document to this report. Feedback on their consultation that they have provided the Council with is as follows:

Houses consulted: 4, 7-11, 13, 14, 16-27 Lower Road, Ledbury (20 properties in total).

Feedback:

- Occupier at [REDACTED] did not provide a written response but gave one as the letter was being hand delivered. Verbal comments were: "I wouldn't be against this. I cannot say I would use it but live and let live".
- Mrs Richardson on behalf of several properties wrote to say: "No's [REDACTED] Lower Road Ledbury would like to oppose the hot food catering unit on the Lower Road Industrial Estate. We oppose due to the reason why on earth do you want to trade from 4pm- 11pm at night when it is a trading estate:- there will be no customers as the Amcor factory have their own canteen and are not happy with the idea also. That would bring people from town from the pubs causing trouble at that time of night. Also the smell of fried food all evening.
- Mr Lewis from No [REDACTED] wrote to ask (NB relevant comments only included here) "What guarantees can be given about the increased noise pollution between the hours requested? How will the unit be secured out of hours?"

One Licensing are proposing that the street trading consent be granted and should there be any problems, then the Council has the power to revoke it in certain circumstances. However, if this logic was applied, then virtually every application for street trading the Council receives would be approved. Due regard must be given to the opinion of the Police and Council EHO who use their expertise to judge in advance what is likely to occur.

## **Considerations:**

**Panel need to consider the following (in line with the provisions of the street trading protocol document):**

### **Suitability of Applicant:**

No apparent reasons for rejection.

### **Suitability of Trading Stall/Unit:**

From the supplied photographs, the trading unit would initially appear sound both internally and externally, though this would be confirmed by an inspection carried out by Environmental Health.

### **Suitability of Proposed Product Range:**

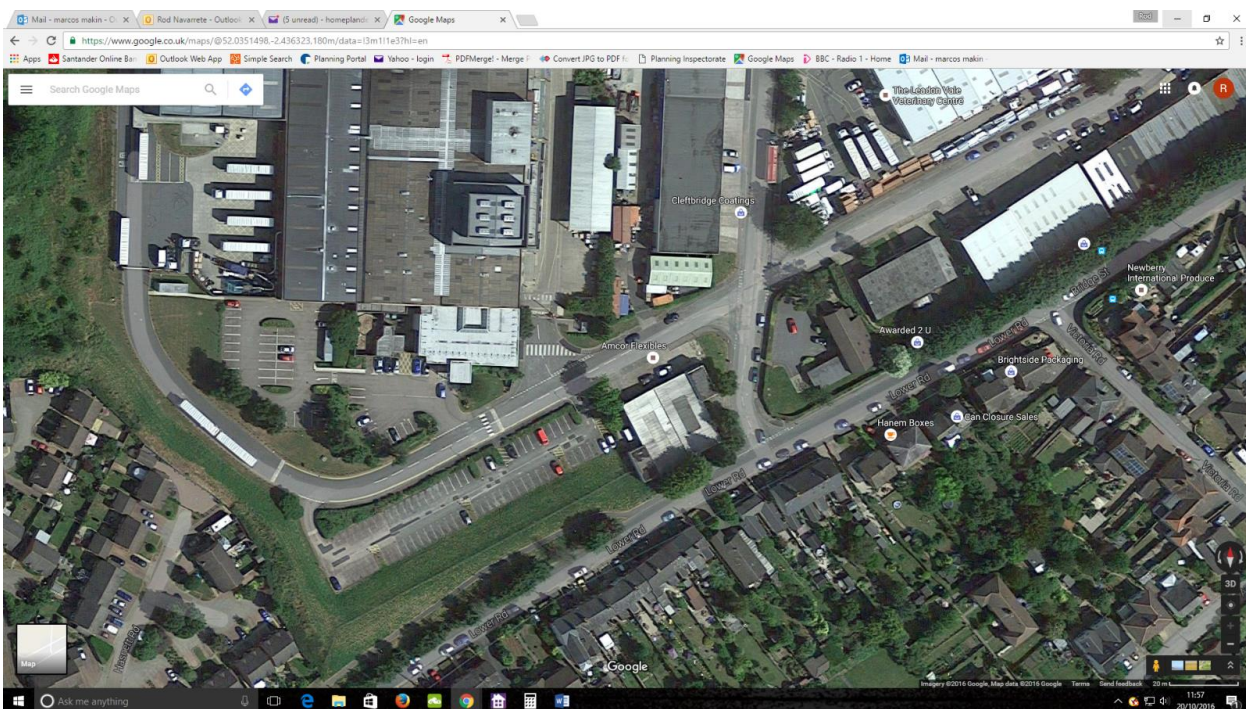
The product range of hot and cold food/drink is that expected to be found typically within a mobile catering unit trading environment. Ledbury already has a range of other eateries, including restaurants and takeaways in the vicinity, selling items similar or identical to those proposed. There

are 2 takeaways in the High Street/Homend that sell burgers, kebabs and chips. One takeaway at Bridge Street (even closer to the proposed trading location) also sells these items.

### Suitability of Proposed Trading Times:

Herefordshire Council has historically not issued any street trading consents for trading times as late as being requested here, i.e 11pm, but as always each application must be considered on its own merits. It is unclear who the target customers would be, as the vast majority of businesses on the estate will be closed by early evening.

### Suitability of Proposed Location:





The location of an industrial trading estate for a mobile catering unit placed in a static location each evening raises questions about where the potential customers would come from. With the majority of estate businesses closed at the proposed operating times, one can only assume the applicant is looking to attract local residents, thereby diverting them from using the establishments in the town centre. There are no parking restrictions in the vicinity of the proposed trading location and it should also be noted there is sufficient on road parking for at least several vehicles at a time, next to the proposed trading location. Amcor Flexibles Ltd who operate a factory close to the proposed trading location have confirmed that they have catering facilities on site which are open into the evening. It should also be noted that there are a number of residential properties located approximately 40-50m as the crow flies from the proposed trading site.

Previous reasoning for refusal for the 2 previous applications here were:

“There are a number of residential dwellings nearby on Lower Road, so an evening catering facility here was not deemed suitable or desirable by the Council at the current time. Furthermore, any customers that choose to park on the highway could cause an obstruction on a road which is used at all times of the daytime/evening period by articulated vehicles from the nearby Amcor factory. Also there are already sufficient retail outlets in Ledbury selling the same/similar products in that which you desire to trade. Ledbury already has an abundance of takeaway food establishments, with the town centre rightly the focus for the evening economy. No evidence or information was provided by yourself that the industrial estate itself would form the basis for your potential customers at the proposed times of trading.”

## **Recommendation:**

To refuse the application because:

There are residential properties close by and an evening catering facility at the proposed location is not judged to be suitable by the Council. Feedback from the Police and the Council Environmental Health Officer is that if consent was granted, it would lead to a concentration of people in that location and an associated increased number of vehicles to use the facility. This could cause a nuisance to nearby residential properties, from the negative impact of odours and noise at the times proposed. Furthermore, it is noted there was very limited support for this venture from the residents consulted and given there is no clear indication that the customer base would be drawn from the locality, then it is considered that it is likely that the customer base would be drawn from further afield, thereby giving rise to the issues highlighted by both the Police and Environmental Health.

## **Alternative Options**

It is for the Council to determine whether to endorse the recommendation for refusal

OR

To approve the application

OR

To come to some other decision

## **Financial Implications**

If the application is approved, the rate for 2017-18 for private land sites is set at £145 per month.

## **Legal Implications**

The legal framework for the issue of Street Trading Consents is contained Part 3 and Schedule 4 of

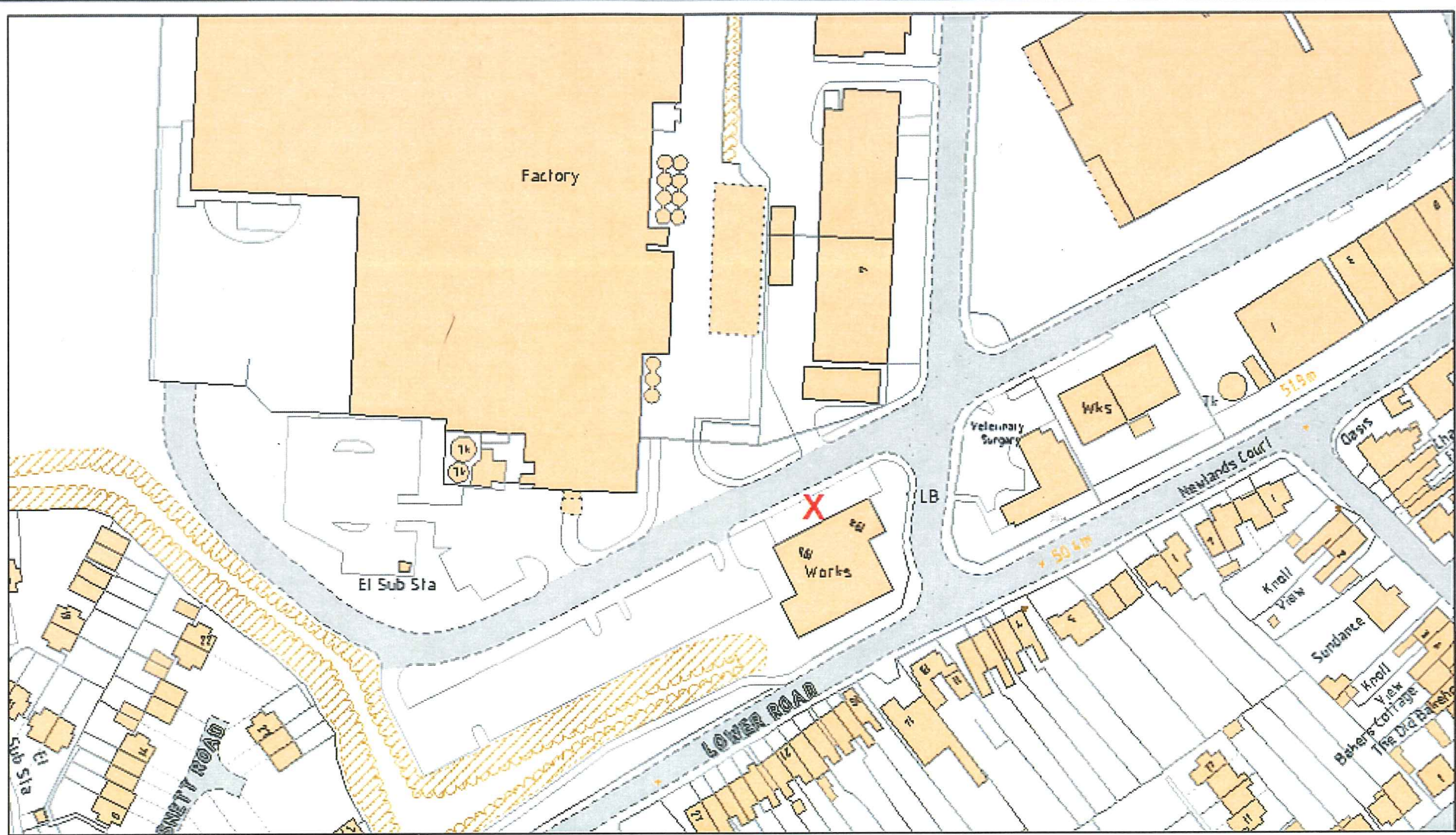
the Local Government (Miscellaneous Provisions) Act 1982. The Council can grant a street trading consent if they think fit. A Street Trading Consent cannot be granted to any individual under 17 years of age or on highway that is subject to a control order under Section 7 of the Local Government (Miscellaneous Provisions) Act 1976. In the event the Council choose to grant a licence they can attach such conditions that they consider reasonably necessary. A consent cannot be granted for a period in excess of 12 months. There is no statutory right of appeal but the Council operates a appeal procedure through its Regulatory Committee.

The power to set fees is contained in Paragraph 9 of Schedule 4 to the Act and the Council can charge such fees as they consider reasonable for the grant of a street trading consent and without prejudice to the generality of their discretion they may have regard to the duration of the consent, the street where the trading is authorised and the description of the articles which the consent holder is licensed to trade. However, the fees charged should be proportionate to costs of administering, managing and enforcing the licensing regime”

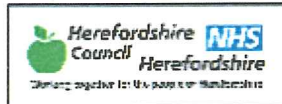
Council protocol is that the applicant has the right of appeal against any Street Trading Panel decision. This would be heard by the Regulatory Sub Committee.

## **Background Papers**

Letter from One Licensing to accompany the application  
Application Form and photographs from the applicant.  
Permission letter from the site owner from 2016.  
Letter from One Licensing to nearby residents



**X = site of snack bar application, Ledbury**



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Markets, Fairs and Street Trading  
 Unit 59  
 Three Elms Trading Estate  
 Hereford  
 HR4 6PU



**Representations received in relation to street trading application by One Licensing on behalf of Mr Mehmet Ozer for site at Unit 19, Lower Road Industrial Estate, Ledbury.**

**1. Herefordshire Council elected ward members:**

Cllr Holton:

*"This is not suitable for Ledbury or required as we have several late night eating establishments on the high street which are covered by CCTV. The Industrial Estate is surrounded by a residential area and families."*

Cllr Harvey:

*"I am not supportive of the location of a street vendor at this location. Ledbury town centre is in easy walking distance of all residential areas. We have a wide selection of food outlets already in the town centre which are open late into the evening - and my view is that these are sufficient for our needs. I remain of the view that this is unnecessary and intrusive."*

**2. Ledbury Town Council:**

*"This application was discussed at last night's Economic Development & Planning Committee meeting. Cllrs expressed concerns, but finally voted that the application could be supported, provided it was on an initial three month trial basis."*

**3. Environmental Health Officer (Environmental Protection), Mr A Trezins:**

*"I can confirm that I have visited the site and am of the opinion that the new application does not significantly address the concerns of noise, disturbance etc. that formed part of the reasons for the refusal with regard to earlier applications. I would also add that should problems occur the powers available to the Local Authority as regards noise nuisance would not be applicable or largely unenforceable in this situation. My comments therefore remain unchanged from that previously submitted"*

**4. West Mercia Police:**

*"We would be concerned about the closing time of 11pm in particular. It could easily become a gathering point, and because of increased traffic to the Industrial Estate that local occupants have not been used to, it could easily be viewed as ASB at this time of night. I don't see anything that changes my original concerns this time around"*

**Nick Green PS 1954**

“From an ASB point of view I would expect this location to become a problem location – especially during the evening with regards to 'boy racers'.

**Jim Mooney, Licensing & Harm Reduction Coordinator**

**5. Feedback from Balfour Beatty who conducted a highways impact assessment of the proposed site.**

Site visited 16<sup>th</sup> of May 2017 - 11:30 AM

There were quite a lot of cars parked on the whole industrial estate generally, a couple opposite the Riley plastics/carwash site and some on the junction or near the junction turning into this spur on the industrial site.

The spur road has the entrance to another business opposite Rowley plastics/carwash, and it is also the access to Amcor.

The site itself is approximately 30 m wide with 2 dropped kerbs for access. One of these is in front of a doorway which forms access into the building. This entrance was open at the time of the visit and presumably needs to be left clear for access inside the building.

The second access is at the other end of the site opposite another doorway, which was closed.

The burger van unit is 3.6 m long x 2.1 m wide, towed by another vehicle. The van would need to be manoeuvred into position on the forecourt of the building, probably parallel to the road as there does not seem to be sufficient width to park it in end on at the left side of the site as you look from the road. The only way to do this would be to drive it up over the kerbs and pavement. It could not be located on the right side of the site due to the access.

As a result, I do not consider there would be sufficient room to park more than a couple of vehicles on the site by visiting customers.

It is highly likely that customers arriving by car will park their vehicles on the road. By doing this they are causing an obstruction to other customers using the car wash, and vehicles arriving and departing the business premises opposite.

If vehicles are parked between 3 and 5 PM when the majority of businesses are still open, and people are leaving for work this adds further congestion and vehicle movements to an already busy site.

This spur road also provides access to Amcor. This business, I understand operates 24/7 and has a number of HGVs coming and going regularly. There were lorries being loaded at the time of my visit. Additional cars parking on this road would make it more difficult for lorries manoeuvring, and particularly trying to turn out of this spur onto the main road to exit the industrial estate.

In conclusion – I would refer to my original comments on the original application from August 2016 in that I feel there would be additional obstruction caused by cars parking for people to use this facility. This will make access and egress much more difficult for vehicles particularly HGVs, using the businesses located on the spur road. As such, I do not support this application.

**Fiona Miles – Licensing and Enforcement officer – BBLP Highways division**

**6. Feedback provided from One Licensing following their leaflet drop to houses in the vicinity about the proposed venture: (two comments only are considered to be valid. One was discounted as it was verbal only and the other claimed to represent the view of 3 properties, so this has been classed as just one)**

*“Mrs Richardson wrote to say she would like to oppose the hot food catering unit on the Lower Road Industrial Estate. “We oppose due to the reason why on earth do you want to trade from 4pm- 11pm at night when it is a trading estate:- there will be no customers as the Amcor factory have their own canteen and are not happy with the idea also. That would bring people from town from the pubs causing trouble at that time of night. Also the smell of fried food all evening.”*

Mr Lewis wrote to say: *“On reflection of the last time a unit was sited at the same location, I would object to any unit moving back. A few questions:*

*Is this the same unit that is already sited elsewhere on the Lower Road estate moving or another unit?*

*What guarantees can be given about the increased noise pollution between the hours requested?*

*What is happening to the existing car wash business parking arrangements between the 4 - 6 pm time frame (proposed site for the snack bar)?*

*How will the unit be secured out of hours?”*

**7. Local resident who chose to e-mail the Council of their own volition, after the original application decision rather than respond to One Licensing direct:**

*Mrs Dee wrote:*

*[REDACTED] This junction is currently very busy and will, I am sure, see an increase in traffic once the new Aldi is completed.*

*As a resident close to the estate I was totally against this venture from the start and had planned to express my views at the meeting. The location of the burger van seemed totally unsuitable due to access issues and the close proximity of some very busy businesses which use very large vehicles. I am obviously pleased the licence has not been granted but felt it necessary to write to express my views.”*

**8. Amcor Flexibles who operate the large factory at the end of the road of the proposed trading site. Note they were not an original consultee but e-mailed their viewpoint to the Council of their own volition after the original application decision:**

*I have listed below the concerns that we as a business have around the proposed siting of the Burger Van on Lower Road Industrial Estate.*

- a) The overall disturbance to residents. We currently deal intermittently with complaints from residents regarding the noise from our own business and we have worked hard to build up a relationship with our neighbours by liaising with them as much as possible in respect of the noise levels and timing. This would add to this disturbance and we suspect you would receive a number of complaints from the surrounding residents.*
- b) The traffic issue is already a problem around the Lower Road Industrial Estate. As you turn right out of the road that the burger van is proposing to be sited, you come to a junction which is already quite dangerous. It is consistently parked up on one side which means numerous vehicles are approaching the junction on the wrong side of the road. Coming out of the junction is also a bit of a blind spot for drivers. We actively encourage all suppliers to send their vehicles along the ring road and up past Homebase to avoid this particular junction. Increasing the traffic in this area is increasing the risk of accidents which is already quite high. On this matter as well we receive complaints from residents when vehicles use this route and this junction. Increasing the volume of traffic we are sure would result in numerous complaints to the council on the traffic and associated risks.*
- c) Parking - the road in question is public land to the point of our entrance gates on the right and our car park on the left. Following this point the land is owned by Amcor Flexibles and as our operation is 24/7 we would not want the public parking along our road and blocking access to our warehouse at the rear of the business, or utilising our car park whilst they visit the burger van. Heavy goods vehicles are entering and leaving our business via this road on a regular basis; plus tankers delivering our solvent and collecting waste solvent; plus there is the fact that our employees constantly entering and leaving the car park. If the application was to go ahead we would seriously be looking at gates being erected to block access to our site.*
- d) The litter this would create would be high and again being so close to our private land this would be a big issue. We are subject to many audits being a manufacturer of food packaging. One them the American Institute of Bakeries (AIB) is a requirement by many of our customers such as Allied Bakeries. This covers not just inside the factory but the hygiene and environmental appearance of our external land. Therefore, if we were unable to erect gates to block access to our land, it could mean that we ended up employing someone to ensure each day that the site was free from debris and litter. This is not a cost we would wish to incur. This is just one audit and there are many others that we have to adhere to being both in manufacturing and within the food packaging industry.*
- e) Worthy of note is that a neighbouring business also has heavy goods vehicles regularly visiting them and actually load and unload these vehicles on the road directly in front of*



*where the burger van is proposed to be sited. Again increasing the risk of accidents with both pedestrians and vehicles, particularly our employees arriving and leaving site.*

- f) As we are a 24/7 site our employees are arriving at various times throughout the day and leaving. We operate a number of shift patterns and the timings of such arrivals / departure vary and cover both day and night. Therefore the risk to pedestrians is high.*
- g) Finally, we as a business subsidise a canteen on site for our employees and outside of opening hours they provide vending machines on site. A business such as this is likely to encourage our employees to leave site and not utilise the canteen or vending machines, therefore increasing the cost to the business in the subsidisation of the facilities on site as the level of subsidy is dictated by the takings of the canteen.*

*Many of the local residents we know are in disagreement as they are also our employees. Apparently all they have received is a flyer by the people proposing to site the burger van and the information on that leaflet was very poor in respect of the actual location.*

**Marion Flaherty**  
HR Manager  
Amcors Flexibles Ledbury

**9. Existing licensed snack bar trader (Mr R Jerabek, t/a J R Catering) who operates elsewhere during the day on Lower Road Industrial estate:**

I am emailing regarding the new burger caravan applying to trade in Ledbury. This new application creates a number of concerns for me.

I am concerned about this new caravan coming into the area where I trade as it will be detrimental to my trade and business. I feel that having this other business would undermine my sales and that this would be bad for business. It seems very unfair that you are considering giving this person an evening trade license when I have applied for an evening trading license on numerous occasions and have been declined. I have recently put a new caravan into my site which has new equipment and a kebab machine in it. If this is approved this will be very unpleasant for me as I have invested a lot of time and money in my business for it to go downhill and lose money.

I have been here many years and as I have said applied before for evenings and been turned down, so why should this application be approved? I feel it would be very wrong.





Office 1477  
109 Vernon House  
Friar Lane  
Nottingham  
NG1 6DQ

13<sup>th</sup> April 2017

Dear Mr Price,

Please accept this letter as our formal appeal notice in respect of the refusal to grant Street Trading Consent at Lower Road Industrial Estate, Ledbury. The decision was notice was emailed to us as requested on 22<sup>nd</sup> March 2017.

Our grounds for appealing are as follows;

As per our covering letter we conducted an informal consultation to approximately twenty residential premises. These addresses were decided to be the most likely addresses which may have had a view on the catering unit being in situ. We had four responses which depicts a 20% response rate.

We and our client do accept that there will be a slight increase in traffic into the area but this will be limited and has no adverse effect on parking within the area as there is ample associated parking. The average wait time is about ten minutes for fresh food to be prepared. Our client is well versed in using telephone ordering to minimise the time in which people and vehicles will be waiting at the site.

Our client was proposing to be running off of the electricity supply from the Car Wash business (Permission agreed to by Car Wash owner) this negates the need for a generator (excluding any loss in power supply) and therefor this becomes a positive as the residents will not hear a generator running into the late evening hours.

Local crime and disorder statistics were checked prior to submitting our client's application. There are no noticeable anti-social hotspots. We appreciate there is a rightful concern that a unit of this nature 'could' bring in a particular crowd.

We and our client strongly refute this as a viable reason to refuse consent. Our client is very experience in the successful running on catering units all across Gloucestershire. He

builds excellent rapport with his regular customers and will not tolerate anti-social gangs becoming magnets to his business.

The unit will have CCTV installed. Our client is more than happy to supply Police with any footage or registrations of vehicles that are causing nuisance.

We are concerned that the decision has been made on grounds that noise, odour, increased traffic, concerns about anti-social behaviour have all been referred to as "May" or "likely" to become an issue.

We would also like to raise the point that a catering unit has previously been located just around the corner from the site of our application. We believe this had consent granted and as far as we understand the only reason the trader vacated the site was due to them finding a site with cheaper costs.

We would urge either Herefordshire Council or the Regulatory Sub-Committee to reconsider the refusal and offer our client a three month trial which would allow him to show the local residents and Council that he is a professional trader who wishes to engage and provide a service to the residents of Ledbury.

We feel with a three month trial, residents, Ledbury Town Council, Herefordshire Council, Police, EHO's will be able to quickly determine if the unit will create any of the aforementioned issues.

We thank you for your time in reading this appeal and look forward to receiving a date for the Regulatory Sub-Committee.

We have enclosed a cheque for the sum of £150.00 as requested.

Kind regards,

Paul & Richard

One Licensing



<b>Meeting:</b>	<b>Licensing sub committee</b>
<b>Meeting date:</b>	<b>16 June 2017</b>
<b>Title of report:</b>	<b>Review of a premises licence following an expedited / summary licence review in respect of: Jalsagar Restaurant, 60 St Owens Street, Hereford, HR1 2PU - Licensing Act 2003</b>
<b>Report by:</b>	<b>Licensing officer</b>

## Classification

### Open

Report and Appendices 1 to 6.

### Exempt

Appendices 7 and 8 are exempt by virtue of paragraph 7 of the Access to Information Procedure Rules set out in the constitution pursuant to Schedule 12A Local Government Act 1972, as amended.

## Key Decision

This is not an executive decision.

## Wards Affected

Central Ward

## Purpose

To consider an application for a review of a premises licence following an expedited / summary licence review in respect of: Jalsagar Restaurant, 60 St Owens Street, Hereford, HR1 2PU.

## Recommendation

**THAT:**

**The sub-committee when determining this review must consider:**

- **what steps it considers necessary for the promotion of the licensing objectives; and**
- **what steps should be taken to secure the promotion of the licensing objectives including whether the interim steps should be made permanent.**

**They should give appropriate weight to:**

- **The steps that are appropriate to promote the licensing objectives**
- **The guidance issued to local authorities Section 182 of the Act**
- **The police application made in respect of the expedited review together with the superintendent's certificate (Appendix 1)**
- **The representations (including supporting information) presented by all parties, and**
- **The Herefordshire Council licensing policy.**

## **Options**

1. There are a number of options open to the committee in relation to the review:
  - 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
2. Where the authority takes a step mentioned in bullet point 1 and 2 above it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.
3. There are a number of options open to committee in relation to the review of the interim steps:
  - leave the interim steps in place
  - modify the interim steps
  - amend the interim steps

## **Reasons for Recommendations**

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

## **Key Considerations**

5. The powers to call for an expedited review are contained in Section 53A of the 2003 Act by virtue of the Violent Crime Reduction Act 2006. The powers allow:
  - 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
  - The licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.

Applicant	Chief Constable – West Mercia Police Represented by: - Sgt 3456 Duncan Reynolds	
Premise Licence Holder	Mrs Wahida Khatun	
Solicitor	N/K	
Type of application: Expedited Review	Date received: 24/05/2017	End of 10 day period 06/06/2017

4. The application for an expedited review was received on 24 May 2017.
5. A hearing was held on 26 May 2017 within the required 48 hours.
6. At that hearing the committee heard from the police and a barrister representing the premises licence holder.
7. The committee decided to suspend the licence with immediate effect as an interim step (appendix 2).

#### **Current Licence**

8. A copy of the current licence is attached (appendix 3).
9. This licence was issued following a review of the licence launched by the police on 30 August 2011. A copy of that application is attached (appendix 4).
10. The licence holder at that time is the same as the current licence holder.
11. The committee reached a decision on that review on 11 October 2011 (appendix 5).
12. The committee added one condition to the licence concerning establishing that an employee had the right to work within the UK.
13. Since that time the Immigration Act 2016 has been introduced and it is now law that such checks shall be carried out prior to a person being employed.

#### **Summary of Representations**

14. The review has been advertised as required by the Act and one (1) representation has been received from a member of the public (appendix 6). The police have provided additional information to support their application (appendix 7 and 8).

#### **Community Impact**

15. Any decision is unlikely to have any significant effect of the local community.

## **Equality duty**

17. This report has human rights implications for both the premises licence holder and the residents from the local neighbourhood. Any of the steps outlined in section 1 of this report may have financial implications for a licensee's business and livelihood and/or may have impact upon the day to day lives of residents living in close proximity to the premises.
18. Article 8(i) of the European Convention of Human Rights provides that everyone has the right to respect for his/her private and family life and his/her home (which includes business premises). This right may be interfered with by the council on a number of grounds including the protection of rights and freedoms of others. The First Protocol – Article 1 – also provides that every person is entitled to the peaceful enjoyment of his possessions and shall not be deprived of his possessions except in the public interest and conditions provided for by law. Members must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.

## **Financial implications**

19. There are unlikely to be any financial implications for the authority at this time.

## **Legal Implications**

20. The licensing authority must have regard to the promotion of the four licensing objectives namely; the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm in exercising its functions under the Licensing Act 2003. Further regard should be had to the statutory guidance under Section 182 of the Act and the council's own statement of licensing policy.
21. The options available to the licensing authority on considering this review under Section 53C of the Act are set out in section 1 of this report.
22. Further after considering what steps to take, if any, in relation to the substantive review the sub-committee must immediately thereafter review the interim steps imposed at the initial hearing on 26 May 2017 and determine whether to modify, remove or maintain the interim steps until the time for any appeal of the substantive review decision made under Section 53C has expired or the outcome of any appeal. This is required to ensure that the appropriate and proportionate safeguards for the promotion of the licensing objectives remain in place.
23. In considering this review and the review of the interim steps the sub-committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the licensing authority.
24. The 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.



25 In this case it was summed up that: -

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.

26 Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions. It should be noted that hearsay evidence is admissible in the context of making decisions on licensing matters.

27 This judgement is further supported in 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:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

28 In addition to this it was stated that any condition attached to the licence should be an enforceable condition.

## **Right of Appeal**

27 There is a right of appeal to the Magistrates Court within 21 days of being notified in writing of the decision in relation to both the decision in relation to the review under Section 53C and in relation to review of the interim steps under Section 53D

## **Risk Management**

28 There is little risk associated with the decision at this time as the legislation allows a right of appeal to the Magistrates Court within a period of 21 days of being notified of the decision in writing.

## **Consultees**

29 All responsible authorities and members of the public living within Herefordshire.

## **Appendices**

Appendix 1 - Police application for the expedited review and the superintendent's certificate

Appendix 2 - Decision notice dated 26 May 2017

Appendix 3 - Current licence

Appendix 4 - Review launched on 30 August 2011

Appendix 5 - Decision notice dated 11 October 2011

Appendix 6 - Public representation

Appendix 7 - EXEMPT - additional police evidence

Appendix 8 - EXEMPT - additional police evidence

## **Background Papers**

Section 12 of the Guidance issued under Section 182 of the Licensing Act 2003.



24 May 2017

Harm Reduction Dept.,  
Hereford Police Station,  
Bath Street,  
Hereford. HR1 2HT

Direct Dial: 01432 347102

e-mail:

[licensing.herefordshire@westmercia.pnn.police.uk](mailto:licensing.herefordshire@westmercia.pnn.police.uk)

**Jalsagar Restaurant, 58-60 St Owen Street, Hereford.**

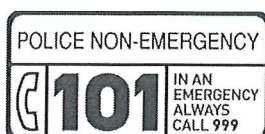
Please find enclosed application papers submitted by West Mercia Police under Section 53A of the Licensing Act 2013.

I can confirm that copies of both sets of papers have been sent to the premises licence holders address as per the premises licence issued.

Yours sincerely,



Ps 3456 D. Reynolds.



[www.westmercia.police.uk](http://www.westmercia.police.uk)



@wmerciapolice



west mercia police

## FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Herefordshire District Council Licensing Authority.

**Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)**

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 the 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.**

I Ps 3456 Duncan REYNOLDS [on behalf of] the chief officer of police for the West Mercia police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

**1. Premises details:**

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Jalsagar Restaurant  
58 St Owen Street**

Post town: Hereford

Post code (if known): **HR1 2PU**

**2. Premises licence details:**

Name of premises licence holder (if known): Mrs Wahida Khatun

Number of premises licence holder (if known): PR00210

**3. Certificate under section 53A(1)(b) of the Licensing Act 2003** [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for

the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

**4. Details of association of the above premises with serious crime, serious disorder or both:**

[Please read guidance note 2]

The Jalsagar Restaurant, St Owen Street, Hereford is a medium sized premises licenced to sell/supply alcohol and provide late night refreshment.

It is located near to the city centre of Hereford.

The premises licence holder is Mrs Wahida KHATUN, however it is known that the premises is owned and operated by a company called Dena Restaurants Ltd., which is run by Mrs KHATUN and her husband Joynal ABADEN.

The named designated premises supervisor is a Mr Shubail AHMED.

It is well known that Mr ABADEN is involved in the business on a daily basis and as such is viewed as the person in charge.

At 1900hrs on Friday 19 May 2017, a joint operation between West Mercia Police and UK Border and Immigration Agency took place at the premises. This was intelligence lead based on good information that a number of people were working at the restaurant who were either illegal immigrants with no right to be in the country or were individuals who had over stayed their authority to be in the country.

At the time of the visit, the premises was open with customers.

Three males were detained and found to be breach of the law. One male was found to be working as a waiter and two were working in the kitchens. One male was found to be in the country illegally and the other two were 'over stayers' and therefore did not have permission to remain in the country.

All three were removed to a holding detention centre in the West Midlands.

At the time of the visit Mr ABADEN was present, a short time later Mrs KHATUN arrived.

It is the view of the police in attendance that Mrs KHATUN was obstructive - through 'finger pointing' and shouting at the immigration officers. She had to be strongly warned to calm down or she would be arrested.

The employment of illegal immigrants in these circumstances is view as serious crime that could attract a prison sentence of 3 years or more on conviction.

The guidance issued under the Licensing Act 2003, also sees these activity as serious and that on review application, there should be serious consideration to revoke the premises licence where it believed that the crime prevention licensing objective is undermined.

For your information, similar issues occurred at this premises in 2011, when as a result of a similar joint operation 5 males were detained in similar circumstances - through two separate visits.

The premises was under the same control and management of Dena Restaurants Ltd. This resulted in a licensing review application by the police, who requested that the premises licence be revoked.

West Mercia Police have considered other options open to them to address this issue, however due to the seriousness, the number of individuals found working illegally in the premises and the fact that similar breaches of the law occurred in 2011 involving the same owners, it is felt that alternative procedures are inappropriate.

At this stage, in order to promote the licensing objectives, West Mercia Police request that you SUSPEND the premises licence pending a full licensing review hearing

Signature of applicant:

Date: 24.05.17

Capacity: Police Harm Reduction Dept., Supervisor.

**Contact details for matters concerning this application:**

Address:

Harm Reduction Dept.,  
Hereford Police Station,  
Bath Street  
Hereford. HR1 2HT

Telephone number(s): 01432 347102

Email: HerefordAntiSocialBehaviour@westmercia.pnn.police.uk

West Mercia Police  
Herefordshire Territorial Policing Unit  
Bath Street  
Hereford

**CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003**

I hereby certify that in my opinion the premises described below are associated with serious crime ~~/serious disorder / both serious crime and serious disorder~~<sup>1</sup>.

*Premises*<sup>2</sup>:

Jalsagar Restaurant  
60 St Owen street  
Hereford. HR1 2PU

Premises licence number (if known): PR00210

Name of premises supervisor (if known): Mrs Wahida KHATUN

I am a Superintendent Susan THOMAS <sup>3</sup> in the West Mercia police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because<sup>4</sup>:

Previous history of a similar nature in 2011, when as a result of 2 visits a total of 5 illegal immigrants were detained.

A licencing review was launched - finalised in October 2011 - additional conditions were added to the premises licence.

The police view is the premises licence holder being involved in the premises and aware of the previous review has ignored the law and therefore due to the seriousness of the matter all other procedures are inappropriate.

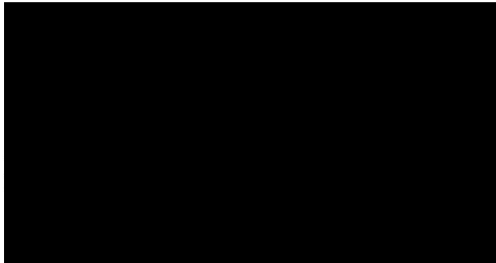
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<sup>1</sup> Delete as applicable.

<sup>2</sup> Include business name and address and any other relevant identifying details.

<sup>3</sup> Insert rank of officer giving the certificate, which must be superintendent or above.

<sup>4</sup> Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.



24/5/17  
.....  
(Date)

S. J. THOMAS  
SUPERINTENDENT



**HEREFORDSHIRE COUNCIL**
**LICENSING SUB COMMITTEE DECISION NOTICE  
(THE LICENSING ACT 2003)**

<b>PREMISES</b>	Jalsagar Restaurant, 60 St Owens Street, Hereford. HR1 2PU
<b>PREMISES LICENCE HOLDER</b>	Mrs Wahida Khatun
<b>APPLICANT'S NAME</b>	Chief Constable – West Mercia Police
<b>APPLICATION TYPE</b>	Expedited/summary licence review
<b>PANEL MEMBERS</b>	Councillor DW Greenow (Chairman) Councillor B Baker Councillor J Hardwick
<b>DATE OF MEETING</b>	26 May 2017

Members of the Licensing Sub Committee of the Council's Planning and Regulatory Committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the Members heard from Sergeant Duncan Reynolds and Jim Mooney representing West Mercia Police and Mr Fred Spriggs, Licensing Officer. Those representations disclosed information about serious crime, namely the employment of workers who had no legal right to work in the United Kingdom. The Members felt that the police representations were both compelling and credible.

The committee also heard from Mr Hugh Shepherd, counsel for the premises licence holder, Mrs Wahida Kahtun, and the designated premises supervisor, Mr Shubail Ahmed. Mr Shepherd explained that two of the individuals were present in the kitchen but were visiting members of staff and were dressed in order to comply with health and safety regulations. The third individual had been employed without the designated premises supervisor being present and therefore without all the appropriate checks being undertaken. However, once the designated premises supervisor was back on the premises, all appropriate checks would have been undertaken and the necessary action taken.

Having carefully considered those matters brought before them and in reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006), the Guidance Issued under Section 182 and the Council's Licensing Policy.

**DECISION**

Hearing of the licensing sub committee held on 26 May 2017 in respect of a review of the licenced premises known as Jalsagar Restaurant, 60 St Owens Street, Hereford. HR1 2PU.

The members have carefully considered all the representations very carefully, they have considered the provisions of S53A and S53B of the Licensing Act 2003; the S182 guidance and the council's own licensing policy in considering whether interim steps should be imposed in this case.

**HEREFORDSHIRE COUNCIL****LICENSING SUB COMMITTEE DECISION NOTICE  
(THE LICENSING ACT 2003)**

Members considered that at least one individual was allowed to work without the requisite checks being made first. This is a serious offence. Further the committee are not persuaded based on the representations they have heard that the other two individuals detained by immigration were not working at the premises.

They also have considered whether any lesser or alternative steps would be appropriate but clearly there had already been a breach of the log book condition and this lead to at least one member of staff being illegally employed by the premises.

Therefore the decision of the committee is to suspend the licence as an interim step which will take effect immediately. They considered that this action was both appropriate and proportionate to promote the licensing objectives and in particular to prevent the undermining of the prevention of crime and disorder licensing objective. The committee also had regard to the previous history of the premises in arriving at their decision.

This matter will be further considered at a review hearing on 16 June 2017 at 10.00 am.

**ADDITIONAL INFORMATION**

- 1 The Committee is required to review the premises licence in full within 28 days of the application for an Expedited/Summary licence review made on 26 May 2017.
- 2 The review has been set for 16 June 2017.
- 3 There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.
- 4 The act allows the premises licence holder to make representation against the interim steps by sending written notification to the Licensing Authority.
- 5 In such case the authority must hold a hearing within 48 hours to consider whether to maintain, remove or modify the interim steps.

**LICENSING ACT 2003  
Part A - Premises Licence**

**Premises licence number - PR00210 (App to Vary Premises DPS)**

**Part 1 - Premises details**

Postal address of premises, or if none, ordnance survey map reference or description

**JALSAGAR RESTAURANT  
60 Owen Street  
Hereford  
HR1 2PU**

Telephone number: **01432 343464**

Where the licence is time limited the dates:

Not applicable

Licensable activities authorised by the licence

**LATE NIGHT REFRESHMENT  
SALE BY RETAIL OF ALCOHOL – for consumption on the premises**

The times the licence authorises the carrying out of licensable activities

- (1) **On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 10 am to 12midnight.**
- (2) **On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12 noon to 11:30pm**
- (3) **On Christmas Day: 12 noon to 11:30pm; For residential licence only from 12 noon to 10.30 with a break of four hours beginning at 3pm.**
- (4) **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).**

The opening hours of the premises

**Plus 30 minutes to the end of the hours shown above**

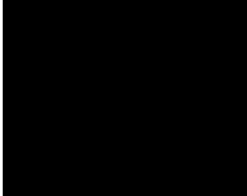
Where the licence authorises supplies of alcohol whether these are on and/ or off supplies

**Alcohol-On the premises**

**Part 2**

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

**Mrs Wahida Khatun**



Registered number of holder, for example company number, charity number (where applicable)

Registered Number: **Not applicable**

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

**Mr Shubail Ahmed**



Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

**Licence Number –**   
**Issuing Authority – Braintree District Council**

**Annex 1 - Mandatory conditions****Mandatory conditions where licence authorises supply of alcohol**

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.

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

The responsible person [as defined by Section 153(4) Licensing Act 2003] shall: -

- take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises
- ensure that no alcohol is dispensed directly by one person into the mouth of another
- ensure that free tap water is provided on request to customers where it is reasonably available.

**Age verification**

- The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

**Smaller measures**

The responsible person shall ensure that-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

- (i) beer or cider: 1/2 pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

**Mandatory condition: door supervision**

Each individual required to carry out a security activity must be licensed by the Security Industry Authority

## **Annex 2 - Conditions consistent with the operating Schedule**

### **Licensing conditions**

#### **General**

Alcohol may be sold or supplied:

- (1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 10 am to 12pm.
- (2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12 noon to 11:30pm
- (3) On Christmas Day: 12 noon to 11:30pm; For residential licence only from 12 noon to 10.30 with a break of four hours beginning at 3pm.
- (4) 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).

The above restrictions do not prohibit:

- a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- b) consumption of the alcohol on the premises by, or, the taking, sale or supply of alcohol to any person residing in the licensed premises;
- c) the ordering of alcohol to be consumed off the premises, or the dispatch by the vendor of the alcohol so ordered;
- d) the sale of alcohol to a trader or club for the purposes of the trade or club;
- e) 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 members of Her Majesty's naval, military or air forces;
- f) the taking of alcohol from the premises by a person residing there; or
- g) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
- h) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises;
- i) the consumption of the alcohol on the premises by persons taking meals there during the first thirty minutes after the above hours, if the alcohol was supplied for consumption ancillary to those meals;

Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal.

Suitable beverages other than intoxicating liquor (including water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the premises.

Prevention of Crime: Not applicable

Public Safety: Not applicable

Prevention of Public Nuisance: Not applicable

Protection of Children: Not applicable

**Annex 3 - Conditions attached following a Review of the premises licence on 11<sup>th</sup> October 2011**

1 A log book must be kept at the premises and made immediately available on request to an authorised person (as defined by Section 13 of the Licensing Act 2003) or the Police. The log book must record the following:

- a) Details of all persons employed at the premises in any capacity.
- b) Date of birth of the person.
- c) The full name of the person.
- d) Their current address.
- e) Their national insurance number.
- f) Their passport details.
- g) In respect of EU citizens, proof of a current EU passport, national insurance card, P45 or P60 shall be provided.
- h) In respect of non EU citizens, a passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom must be provided.

All such information shall be recorded prior to them working at the premises. All information detailed above to be supported by a copy of the relevant document.

**Annex 4 - Plans  
As attached**

**LICENSING ACT 2003  
Part B - Premises licence summary**

**Premises licence number - PR00210 (App to Vary Premises DPS)**

**Premises details**

Postal address of premises, or if none, ordnance survey map reference or description

**JALSAGAR RESTAURANT  
60 Owen Street  
Hereford  
HR1 2PU**

Telephone number: **01432 343464**

Where the licence is time limited the dates

**Not applicable**

Licensable activities authorised by the licence

**LATE NIGHT REFRESHMENT  
SALE BY RETAIL OF ALCOHOL – for consumption on the premises**

The times the licence authorises the carrying out of licensable activities

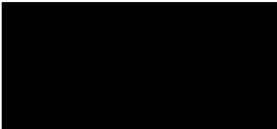
- (5) **On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 10 am to 12midnight.**
- (6) **On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12 noon to 11:30pm**
- (7) **On Christmas Day: 12 noon to 11:30pm; For residential licence only from 12 noon to 10.30 with a break of four hours beginning at 3pm.**
- (8) **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).**

The opening hours of the premises

**Plus 30 minutes to the end of the hours shown above**

Name, (registered) address of holder of premises licence

**Mrs Wahida Khatun**





Where the licence authorises supplies of alcohol whether these are on and / or off supplies

**Alcohol-On the premises**

Registered number of holder, for example company number, charity number (where applicable)

Registered Number: **Not applicable**

Name of designated premises supervisor where the premises licence authorises the supply of alcohol

**Mr Shubail Ahmed**

State whether access to the premises by children is restricted or prohibited

**Not applicable**



**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.

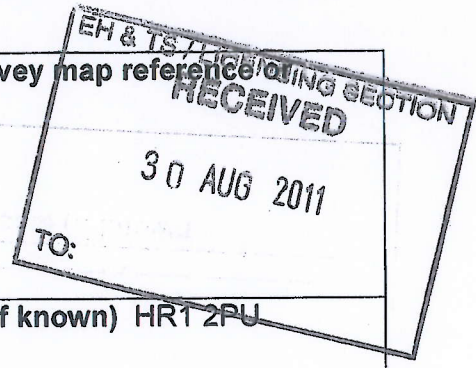
I David SHAW - Chief Constable West Mercia Police

*(Insert name of applicant)*

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference</b> description Jalsagor Restaurant 58-60 St Owen Street	
<b>Post town</b> Hereford	<b>Post code (if known)</b> HR1 2PU



<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mrs Wahida KHATUN
--

<b>Number of premises licence or club premises certificate (if known)</b> PRO00210
---

**Part 2 - Applicant details**

I am

**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

Please tick yes

I am 18 years old or over

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 James MOONEY Police Licensing Officer (South Hub) Territorial Policing Unit - Herefordshire Hereford Police Station Bath Street Hereford. HR1 2HT
Telephone number (if any) 01432 347102
E-mail address (optional)

**This application to review relates to the following licensing objective(s)**

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

**Please state the ground(s) for review (please read guidance note 1)**

The premises is a well established restaurant near to the city centre of Hereford. The premises is licensed for the sale of alcohol and the provision of late night refreshment

As a result of intelligence a number of enforcement visits have been made to the premises by the UK Border Agency and West Mercia Police. Two visits in 2011 have resulted in a number of members of staff being detained for immigration offences.

A total of 6 persons were detained. It is the view of West Mercia Police that the employment of these persons is serious financial gain for the premises licence holder as no UK tax and insurance are paid. It shows a lack of control and management of the premises by this person. In addition the activity involves criminal conduct by the premises licence holder and a disregard to legal requirements concerning the employment of non UK or EU nationals.

**Please provide as much information as possible to support the application**  
(please read guidance note 2)

As a result of intelligence two warrants have been executed at the premises in 2011, with regards to the employment of illegal immigrants.

19/04/2011 - 3 Bangladeshi males were detained at the premises. All were working at the premises illegally. None had any residential or employment status in the UK. Two were taken into custody. The third male was later released as he claimed asylum status whilst in detention. One of the two males taken into custody was later released from detention due to a procedural issue out of the control the UK Border Agency. This male was later detained at the same premises on 20/07/11. All three were employed at the premises as waiters.

20/07/2011 - 3 Bangladeshi males were detained at the premises. One of these males had previously been detained at the premises on 19/04/2011. One of the males was later released as he claimed asylum whilst in detention. The other two remain in detention awaiting deportation. All three were employed at the premises as waiters. Two of them were living at the premises.

In addition one further male was found to be in breach of his student study visa as he had failed to attend his course. He was released whilst further investigation was undertaken. Attendance on the student course is a condition of temporary employment in the UK

No documentation was held at the premises with regards to the employment of these males.

At the time of both visits the premises licence holder was not present. It appears that from speaking to the staff, that her husband Joynal ABADEN is the manager of the premises and that he recruits all staff and pays them directly with cash.

The issues of illegal entry and overstaying by immigrants is a serious matter which impacts on the economy of the UK through non payment of tax and national insurance. The disregard of immigration legislation is a criminal offence and shows a serious neglect by the premises licence holder Mrs KHATUN to promote the licensing objective of the prevention of crime and disorder.

Action by the UK Border Agency Civil Penalty Department has been commenced. As a result of the events of 19/04/2011, a notice indicating a fine of £15000 was served on the holding company for the premises - Jalsagor Indian Cuisine Ltd. This fine was not paid as it appears the company went into liquidation, a further notice was raised and served for the same fine on a company called Dena Restaurant Ltd who are the holding company for the premises. This fine has not been paid.

As a result of the events of 20/07/2011, a similar fine has been served on the same registered company.

As at this date these fines have not been paid or the amount appealed.

**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

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

N/A





Please tick yes

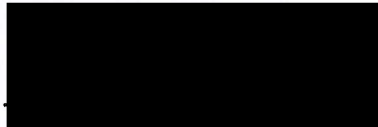
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**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 25 August 2011

Capacity Police Licensing Officer

**Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)**

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

**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.



**HEREFORDSHIRE COUNCIL**
**REGULATORY COMMITTEE DECISION NOTICE  
(THE LICENSING ACT 2003)**

<b>PREMISES</b>	Jalsagar Restaurant
<b>DESIGNATED PREMISES SUPERVISOR</b>	Mrs Wahida Khatun
<b>APPLICANT'S NAME</b>	West Mercia Police
<b>APPLICATION TYPE</b>	Review of Premises Licence
<b>PANEL MEMBERS</b>	Councillor JW Hope MBE (Chairman) Councillor Brig. P Jones CBE Councillor GA Powell
<b>DATE OF MEETING</b>	11 October 2011

Members of the Licensing Panel of the Council's Regulatory Committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the Members heard from James Mooney, representing West Mercia Police, and the Designated Premises Supervisor's Legal Advisor.

Having carefully considered those matters brought before them and in reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 and the Council's Licensing Policy. The Members made the following decisions in order to promote the licensing objective of the prevention of crime and disorder.

**DECISION**

- 1 It is the decision of the Committee that the condition detailed below be added to the premises licence.

**CONDITION**

- 1 A log book must be kept at the premises and made immediately available on request to an authorised person (as defined by Section 13 of the Licensing Act 2003) or the Police. The log book must record the following:
  - a) Details of all persons employed at the premises in any capacity.
  - b) Date of birth of the person.
  - c) The full name of the person.
  - d) Their current address.
  - e) Their national insurance number.
  - f) Their passport details.
  - g) In respect of EU citizens, proof of a current EU passport, national insurance card, P45 or P60 shall be provided.
  - h) In respect of non EU citizens, a passport or other travel document endorsed to show that the holder is exempt from immigration control, is

**HEREFORDSHIRE COUNCIL****REGULATORY COMMITTEE DECISION NOTICE  
(THE LICENSING ACT 2003)**

allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom must be provided.

All such information shall be recorded prior to them working at the premises. All information detailed above to be supported by a copy of the relevant document.

**REASON**

- 1 The Committee came to this decision in order to promote the licensing objective of the prevention of crime and disorder.

*\* Subject to Section 52(11) which states that a determination under this section does not have effect:  
(a) until the end of the period given for appealing against the decision, or  
(b) if the decision is appealed against, until the appeal is disposed of.*

*There is a right of appeal under Schedule 5 Paragraph 8a, which must be made to a magistrates court within 21 days of this decision. It is recommended that you obtain your own legal advice or contact the Magistrates Court at Bath Street, Hereford, if you do wish to appeal this decision.*

EH & TS / LICENSING SECTION  
RECEIVED

07 JUN 2017

HEREFORDSHIRE COUNCIL  
Licensing Act 2003

TO:  
REPRESENTATION FORM - INTERESTED  
PARTIES

Please return this form, and any additional information within the statutory period to:  
The Licensing Section,  
Herefordshire Council,  
8 St Owen Street,  
Hereford,  
HR1 2PJ  
licensing@herefordshire.gov.uk

On making your representation please have regard to the 'Making Representations Guidance Notes' which further explains the process and the information that can be considered by the licensing authority.

When completing this form please print clearly and legibly.



Contact Telephone No.



E-mail address:



Please state your interest in the premises you are making a representation about: eg local resident/local business

JALSAGOR

Name & Address of premises you are making a representation about:

JALSAGOR RESTAURANT  
58-60 ST OWENS ST. HR1 2PJ

DATA PROTECTION ACT 1998. Please indicate by ticking here ..... if you are not content for your personal details to be circulated as necessary prior to any hearing .

A representation must reflect one or more of the licensing objectives, therefore please write the details of your representation in the relevant boxes below

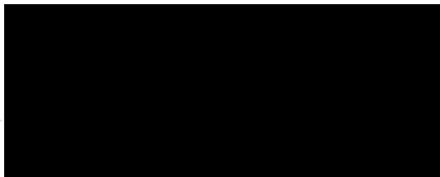
To Prevent Crime & Disorder

Public Safety

COMPLETE CLEAN-UP OF PREMISES TO ERADICATE VERMIN AND FOUL ODOURS ENVIRONMENTAL HEALTHY (V. MENALLY) ARE AWARE OF OUR CONCERNS.

To Prevent Public Nuisance

THE DIRECTORS AND STAFF OF THIS BUSINESS DO NOT RESPECT IN ANYWAY THEIR NEIGHBOURS BY CONTINUING TO OPERATE IN ADEQUATE AROMA AND VENTILATION NOISEY EQUIPMENT. ANY RENUAL SHOULD REQUIRE TOTAL UPGRADE OF EXISTING EQUIPMENT AT A MINIMUM



Signed:

Date: 6/6/17

EH1 REPRF - 1 Representation Form - Interested Parties

If you have any queries about this form or are unsure of when the statutory period ends please contact the Licensing Helpline on 01432 260105



HEREFORDSHIRE  
COUNCIL

**Representation Form – Interested Parties**  
**Suggested Conditions**

It would help us with this application if you could suggest conditions you would be happy for the premise to operate under to rectify the problems you are experiencing.

All suggested conditions shall be considered in line with the Herefordshire Council Licensing Policy, the Licensing Act 2003 and the Licensing Objectives.

**To Prevent Crime and Disorder**

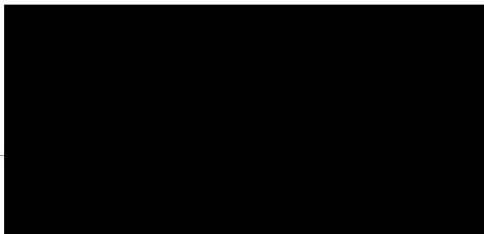
**Public Safety**

COMPLETE SITE CLEAN-UP TO ERADICATE VERMIN AND FOUL ODORS

**Prevent Public Nuisance**

UPGRADE VENTILATION SYSTEM TO ELIMINATE BOTH NOISE AND FUMES. ANY RENEWAL SHOULD REQUIRE EXISTING DIRECTORS/OWNER AND MANAGEMENT BE PRECLUDED FROM INVOLVEMENT IN THE BUSINESS

**Protect Children from Harm**



Signed:

Date:

7/6/17

If you have any queries about this form or are unsure of when the statutory period ends please contact the Licensing Helpline on 01432 260105

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Document is Restricted

