

## Deputy Chief Executive's Office

Dean Taylor

### Members of the Regulatory Sub Committee:

JW Hope MBE, PJ McCaull and A Seldon

Your Ref: N/A

Our Ref: Friday 18 March 2011

Please ask for: Ricky Clarke, Democratic

Direct Line: Services Officer

Fax: 01432 261885

E-mail: rclarke@herefordshire.gov.uk

17 March 2011

Dear Councillor,

### Regulatory Sub Committee - Supplementary Report

Please find attached a supplementary report that was not available prior to the publication of the agenda for the forthcoming meeting (Friday 18 March 2011, at 11.00 am). Please bring these papers to the meeting.

#### 10. EXPEDITED/SUMMARY LICENCE REVIEW OF PREMISES LICENCE 'EAST EUROPEAN FOOD, 133 EIGN STREET, HEREFORD, HR4 0AJ'

To consider an application for an 'expedited licence review' of the premises licence relating to 'East European Food, 133 Eign Street, Hereford, HR4 0AJ called by Charles Hill, Superintendent of the West Mercia Constabulary and represented by Mr James Mooney, Police Licensing Officer.

*The expedited review is being considered as a matter of urgency in accordance with section 21 of the Violent Crime Reduction Act 2006*

*53A Summary reviews on application of senior police officer*

*(1) The chief officer of police of a police force for a police area may apply under this section to the relevant licensing authority for a review of the premises licence for any premises wholly or partly in that area if—*

*(a) the premises are licensed premises in relation to the sale of alcohol by retail; and*

*(b) a senior member of that force has given a certificate that it is his opinion that the premises are associated with serious crime or serious disorder or both;*

*and that certificate must accompany the application.*

*(2) On receipt of such an application, the relevant licensing authority must—*

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Working in partnership for the people of Herefordshire

P O Box 240, Brockington, 35 Hafod Road, Hereford HR1 1ZT (DX: (DX 135296 Hereford 3))

Herefordshire Council      Main Switchboard (01432) 260000, [www.herefordshire.gov.uk](http://www.herefordshire.gov.uk)

NHS Herefordshire      Main Switchboard (01432) 344344, [www.herefordshire.nhs.uk](http://www.herefordshire.nhs.uk)

*(a) within 48 hours of the time of its receipt, consider under section 53B whether it is necessary to take interim steps pending the determination of a review of the premises licence; and*

*(b) within 28 days after the day of its receipt, review that licence in accordance with section 53C and reach a determination on that review.*

Ward: Central

Yours sincerely,

**Ricky Clarke, Democratic Services Officer**

enc.

cc. Members and officers in receipt of Regulatory Sub Committee papers

<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>18 MARCH 2011</b>
<b>TITLE OF REPORT:</b>	<b>EXPEDITED/SUMMARY LICENCE REVIEW OF PREMISES LICENCE: EAST EUROPEAN FOOD, 133 EIGN STREET, HEREFORD, HR4 0AJ</b>
<b>PORTFOLIO AREA:</b>	<b>ASSISTANT DIRECTOR (EHTS) PUBLIC HEALTH DIRECTORATE</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Hereford

### **Purpose**

To consider an application for an '*expedited licence review*' of the premises licence relating to 'East European Food, 133 Eign Street, Hereford, HR4 0AJ called by Charles Hill, Superintendent of the West Mercia Constabulary and represented by Mr James Mooney, Police Licensing Officer.

### **Key Decision**

This is not a Key Decision.

### **Recommendation**

THAT Sub-Committee determine the interim steps necessary to prevent serious crime or serious disorder at the premises and to promote the licensing objectives in the overall interests of the local community. They should give appropriate weight to:

- The steps that are necessary to assist with the prevention of serious crime and disorder,
- The representations (including supporting information) presented by all parties,
- The Guidance issued to local authorities under Section 53A of the Licensing Act 2003 by the Violent Crime Reduction Act 2006, and
- The Herefordshire Council Licensing Policy.

### **Key Points Summary**

- Application received for an expedited review on 17 March 2011
- Hearing arranged for 18 March 2011 within the required 48 hours.
- 17 March 2011 - Copies of application and certificate sent to the premise licence holder and responsible authorities.

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

## Options

The interim steps that the licensing authority can consider taking are:

1 Take no action or

Take any of the following steps: -

- (a) to modify the conditions of the licence;
- (b) the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence;

Where the authority takes a step mentioned in subsection (a) or (b), it may provide that the modification or exclusion is to have effect until the full review hearing.

## Reasons for Recommendations

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

## Background Information

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:

- i. The police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and
- ii. The licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.

Applicant	<b>Charles Hill – Superintendent West Mercia Constabulary</b>	
	<b>Represented by: - James Mooney – Police Licensing Officer</b>	
Premise Licence Holder	<b>Ali Ahmed Azad</b> <b>Flat 34 Kilsall Court, Boscobel Crescent, Wolverhampton, WV1 1QF</b>	
Solicitor	<b>Not known</b>	
Type of application:	Date received:	Interim Steps Hearing 48 hours
<b>Expedited Review</b>	<b>17/03/2011</b>	<b>18/03/2010</b>

### 3 **Current Licence**

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

Sale by retail of alcohol

Monday - Sunday: 08:00 - 22:00

### 4 **The Grounds for the Review**

The grounds for the review are contained in Appendix 1 and 2 of the background papers.

### 5 **Responsible Authorities**

Copies of the application and certificate have been sent to the responsible authorities.

## **Key Considerations**

- 6 To consider what action should be taken, if any, to prevent further outbreaks of serious crime and disorder and to promote the four licensing objectives in accordance with the recommendation.

Guidance issued by the DCMS in respect of Expedited Reviews states at paragraph: -

3.5 If the licensing authority decides to take steps at the interim stage then:

The decision takes effect immediately, or as soon after then as the licensing authority directs; but

The licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who make the application.

3.6 The licensing authority in deciding when its decision on interim steps should take effect should consider the practical implication of compliance in relation to the premises.

3.7 In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to a premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw or modify those steps. The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring. In some circumstances, it might be better to seek suspension of the licence pending the full review, rather than imposing a range of costly conditions or permanent adjustments.

## **Community Impact**

- 7 It is felt that if no action is taken this could have an adverse effect on the local community.

## **Legal Implications**

- 8 The premise licence holder may make representations against the interim steps taken by the licensing authority. There is not a time limit for the premises licence holder to make representation on the interim steps, although this would be within the normal review period of 28 days. On receipt of representations and if they are not withdrawn, a hearing must be arranged within 48 hours of receipt.

## **Consultees**

- 9 Responsible authorities and the premise licence holder.
- 10 A copy of the application has been served on the responsible authorities.

## **Appendices**

- 11 a. Application Form for Expedited Review
- b. Certificate

## **Background Papers**

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

## FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

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

Herefordshire Council  
Licensing Department  
Council Offices  
Bath Street  
HEREFORD

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

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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 James Mooney police for the West Mercia review of a premises licence under section 53A of the Licensing Act 2003.	[on behalf of] the chief officer of police area apply for the
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**1. Premises details:**

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

**Eastern European Foods  
Eign Street**

Post town: HEREFORD

Post code (if known): **HR4 0AJ**

**2. Premises licence details:**

Name of premises licence holder (if known): PR01382

Number of premises licence holder (if known):

**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 premises is a multi national small size convenience store.**

**On Monday 13 December 2010, a search warrant was executed at the premises. This was a joint operation between Herefordshire Trading Standards, HM Revenue and Customs, supported by officers from West Mercia Police. On this occasion, the premises licence holder Mr AZAD was on the premises. In the region of 300,000 cigarettes, 10kg of tobacco and a large amount of alcohol was seized. None of these items had been subject HMRC procedure and therefore no UK tax had been paid.**

**On Wednesday 16 March 2011, a further warrant was executed at the premises. On this occasion 4,400 cigarettes were seized for the same reasons as in December 2010.**

**On this visit it was established that Mr AZAD was not at the premises and that he was believed to be out of the country and had been since shortly after the visit in December. Therefore the premises does not have a designated premises supervisor and any sales of alcohol will be an unauthorised licensable activity. On this occasion a notice under S19 Criminal Justice and Police Act 2001 was served on a member of staff at the premises, indicating that there had been a breach of the premises licence and therefore the sale of alcohol should cease**

**These breaches directly impact on the licensing objectives of the prevention of serious crime and disorder.**

Signature of applicant: 

Date: 17 March 2011

Capacity: Licensing Officer



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

Address: **Hereford Police Station**  
**Bath Street**  
**HEREFORD**

Telephone number(s): 01432 347102

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

**Notes for guidance:**

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

West Mercia Police  
Herefordshire Territorial Policing Unit  
Bath Street  
Hereford. HR1 2HT

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

I hereby certify that in my opinion the premises described below are associated with serious crime /.

Eastern European Foods  
Eign Street  
Hereford HR4 0AJ

Premise Licence Number; PR01382

Name of Premise Supervisor; Ali Ahmad AZAD

I am Superintendent Charles HILL of the West Mercia Police

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because.

- Two separate incidents where warrants were executed at the premises resulting in large amounts of tobacco, cigarettes and alcohol were found and seized. It has been established that these items are smuggled goods and have not been subject to HMRC checks and tax compliance
- The most recent visit established that the premises licence holder Ali AZAD is out of the country and has not been seen at the premises since December 2010. Therefore there is no designated premises supervisor in place and any sales of alcohol are unlicensed.
- The interim conditions being sought are necessary for the promotion of the licensing objectives of the prevention of crime, the protection of children from harm and ensuring public safety.

.....  
Signed *Charles Hill Sgt 944* Dated *17/11*

1 Delete as applicable  
2 Include business name and address and any other relevant identifying details  
3 Insert rank of officer giving the certificate, which must be a superintendent or above  
4 Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of the seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.