

**SUPPLEMENT TO THE AGENDA FOR**

# **Regulatory Sub Committee**

**Monday 4 April 2011**

**10.00 am**

**Meeting Room 18a, Brockington, 35 Hafod Road, Hereford**

|  | <b>Pages</b>  |
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| <b>7. TO CONSIDER A FULL REVIEW OF A PREMISES LICENCE FOLLOWING AN EXPEDITED REVIEW IN RESPECT OF: EAST EUROPEAN FOOD, 133 EIGN STREET, HEREFORD, HR4 0AJ.</b> | <b>1 - 10</b> |



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|-------------------------|--|
| <b>MEETING:</b>         | <b>REGULATORY SUB-COMMITTEE</b>  |
| <b>DATE:</b>            | <b>4 APRIL 2011</b>  |
| <b>TITLE OF REPORT:</b> | <b>FULL REVIEW OF A PREMISES LICENCE FOLLOWING AN EXPEDITED REVIEW IN RESPECT OF: EAST EUROPEAN FOOD, 133 EIGN STREET, HEREFORD, HR4 0AJ</b> |
| <b>PORTFOLIO AREA:</b>  | <b>PUBLIC HEALTH</b>   |

**CLASSIFICATION:** Open

### **Wards Affected**

St Nicholas

### **Purpose**

To consider a full review of a premises licence following an expedited review in respect of: East European Food, 133 Eign Street, Hereford, HR4 0AJ.

### **Key Decision**

This is not a Key Decision.

### **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.**

### **Key Points Summary**

- Application for the Expedited Review received on 17<sup>th</sup> March 2011.
- Interim Steps Hearing held on 18<sup>th</sup> March 2011.
- Decision of committee to suspend licence pending the full review.

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

## Options

- 1 There are a number of options open to the committee:
  - the modification of the conditions of the premises licence;
  - the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
  - the removal of the designated premises supervisor from the licence;
  - the suspension of the licence for a period not exceeding 3 months; and
  - the revocation of the licence.

## Reasons for Recommendations

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

## Background Information

- 3 The powers to call for an Expedited review are contained in Section 53A of the Licensing Act as amended by 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.
- 4 The expedited review hearing was held on 18<sup>th</sup> March 2011 when the committee considered an application made by the Chief Constable of the West Mercia Police. At that hearing it was decided that the premises licence should be suspended forthwith. At that time the premises licence holder, Mr Azad, was not present.
- 5 A copy of the decision notice was served on the premises on 18<sup>th</sup> March and sent by 1<sup>st</sup> Class post to the address for the premises licence holder.
- 6 A notice of the full review was placed on the premises as required by law.
- 7 **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
- 8 The grounds for the review are contained in Appendix 1 and 2 of the background papers.

## 9 **Representation**

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

At the time of writing this report no representation has been received.

## **Key Considerations**

10 The licensing authority must take into account any relevant representations made. Relevant representations are those that:

- relate to one or more of the licensing objectives;
- have not been withdrawn; and
- are made by the premises licence holder, a responsible authority or an interested party (who is not also a responsible authority).

## **Community Impact**

11 Any decision is likely to have very little impact on the community.

## **Legal Implications**

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

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

## **Consultees**

14 Responsible authorities and persons living within the vicinity or with a business interest within the vicinity of the premises.

15 The notice of review was displayed on the premises which invited representation between 22<sup>nd</sup> March to 1<sup>st</sup> April 2011. The notice was also displayed at the offices of the Licensing Authority at Bath Street.

. Appendices

16 a. Application Form for Expedited Review

b. Certificate

c. Decision notice following interim steps

## **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.**

|  |   |
|--|---|
| <p>I James Mooney<br/>police for<br/>the West Mercia<br/>review<br/>of a premises licence under section 53A of the Licensing Act 2003.</p> | <p>[on behalf of] the chief officer of<br/><br/>police area apply for the</p> |
|--|---|

**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.

**HEREFORDSHIRE COUNCIL**

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

|                                       |   |
|---------------------------------------|---|
| <b>PREMISES</b>                       | East European Foods   |
| <b>DESIGNATED PREMISES SUPERVISOR</b> | Mr Ali Ahmed Azad   |
| <b>APPLICANT'S NAME</b>               | West Mercia Police  |
| <b>APPLICATION TYPE</b>               | Summary Review  |
| <b>PANEL MEMBERS</b>                  | Councillor JW Hope MBE (Chairman)<br>Councillor A Seldon<br>Councillor PJ McCaull |
| <b>DATE OF MEETING</b>                | 18 March 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.

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) 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 premises licence for East European Foods be suspended forthwith subject to further review.

**REASON**

- 1 The Committee has found that there has been serious crime at the premises and has made its decision having heard evidence from West Mercia Police and in accordance with the guidance issued under Section 53A of the Licensing Act 2003 as amended. The Committee therefore decided that to promote the licensing objective of the prevention of crime and disorder the licence should be suspended.

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

- 1 The Committee is required to review the premises licence in full within 28 days of the application for a summary licence review made on 17 March 2011.
- 2 The Licensee may make representations to the licensing authority in respect of the interim steps at any stage prior to the review. These representations must be heard by Committee within 48 hours (When calculating the 48 hour period any non-working day will be disregarded).
- 3 There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.