

# A G E N D A

## Regulatory Sub Committee

Date: **Tuesday, 30th August, 2005**

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Time: **2.00 p.m.**

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Place: **The Library, Shirehall, St Owen's  
Street, Hereford**

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

*For any further information please contact:*

*Ricky Clarke, Members' Services,  
Tel: 01432 261885 Fax: 01432 260286*

*email: [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk)*

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**County of Herefordshire  
District Council**



# AGENDA

## for the Meeting of the Regulatory Sub Committee

To: Councillors T.W. Hunt, R.I. Matthews and P.G. Turpin

	Pages
<b>1. ELECTION OF CHAIRMAN</b>	
To elect a Chairman for the hearing.	
<b>2. APOLOGIES FOR ABSENCE</b>	
To receive apologies for absence.	
<b>3. NAMED SUBSTITUTES (IF ANY)</b>	
To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
<b>4. DECLARATIONS OF INTEREST</b>	
To receive any declarations of interest by Members in respect of items on the Agenda	
<b>5. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE BARRELS, 69 ST. OWEN'S STREET, HEREFORD, HR1 2JO.</b>	5 - 12
To consider an application for variation of the premises licence in respect of The Barrels, 69 St. Owen's Street, Hereford, HR1 2JO.	



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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of the Cabinet, of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
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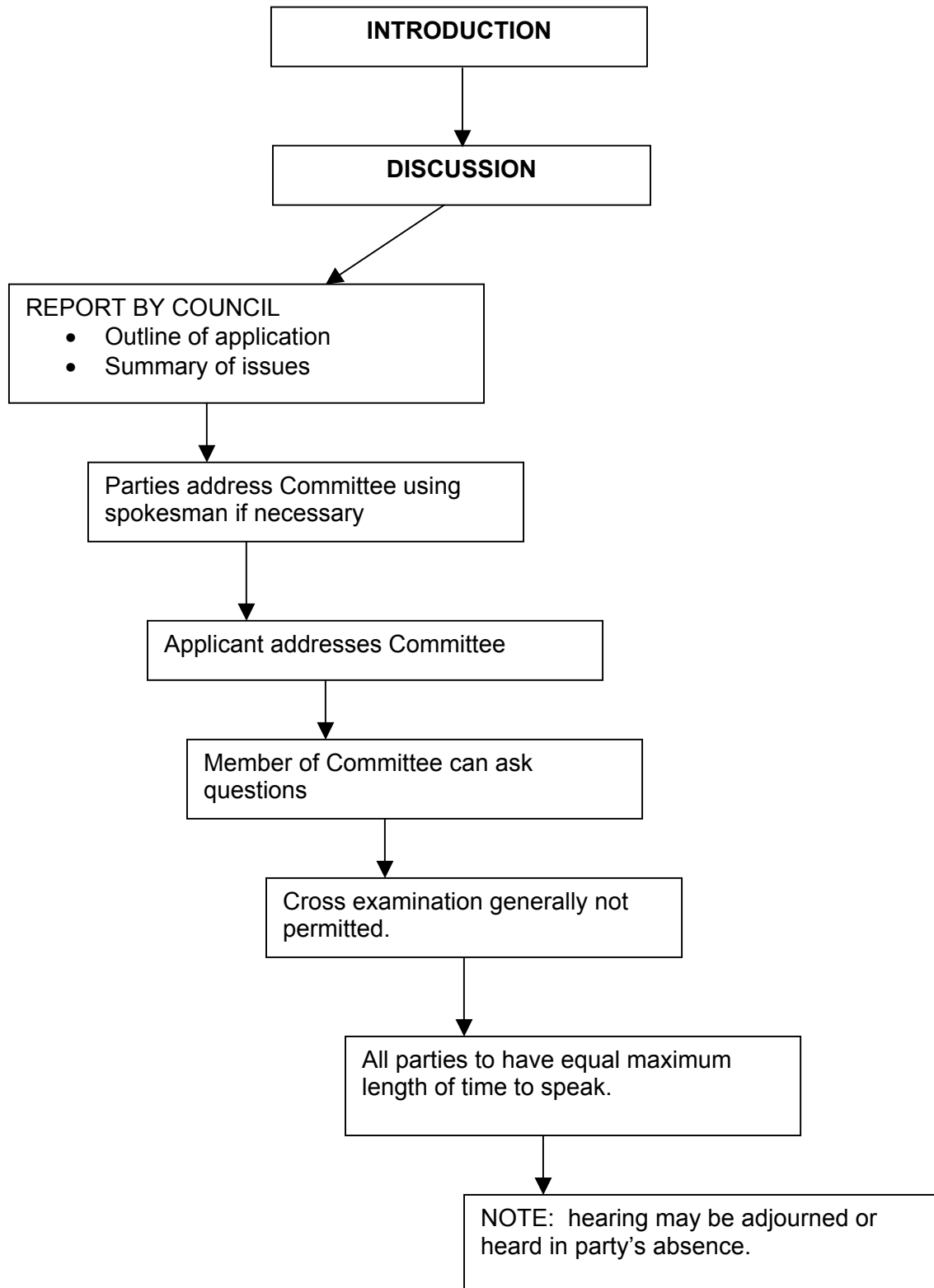
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## LICENCING HEARING FLOW CHART







**APPLICATION FOR VARIATION OF PREMISES  
LICENCE 'THE BARRELS, 69 ST OWEN'S STREET,  
HEREFORD, HR1 2JO' - LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

**Wards Affected:**

Aylestone & Tupsley

**1. Purpose**

To consider an application for variation of the premises licence in respect of The Barrels, 69 St. Owen's Street, Hereford, HR1 2JO.

**2. Background Information**

Applicant	<b>Peter William AMOR</b>		
Solicitor	<b>N/A</b>		
Premise	<b>The Barrels, 69 St Owen's Street, Hereford. HR1 2JO.</b>		
Type of application: <b>Conversion Variation</b>	Date received: <b>04/07/05</b>	28 Days consultation <b>01/08/05</b>	Issue Deadline: <b>04/09/05</b>

Both the advertisement and the current licences have been seen and accepted.

**3. Conversion Licence Application**

The premises currently only holds a Justices On Licence and no other licence. A conversion licence, has been issued as follows; -

<b>Licensable activity</b>	<b>Hours</b>
Sale of alcohol on and off the premises	Mon-Sat 1000 to 2300 hours
	Sun 1200 to 2230 hours
	Good Friday 1200 to 2230 hours
	Christmas Day 1200 to 1500 hours and 1900 to 2230 hours.
	New Years Eve 1000 hours to 2300 hours
	New Years Day

With the following condition attached:-

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (Drinking up time).

The premises do not hold a current public entertainment licence.

#### 4. **Variation Licence Application**

The application for a variation has received representations by responsible authorities and also members of the public. It therefore is now brought before the committee to determine the application.

#### 5. **Summary of Application**

The licensable activities applied for are: -

Films\*

Indoor Sporting Events\*

Live Music \*

Recorded Music \*

Anything similar to Live Music or Recorded Music \*

Provision of facilities for making music \*

Provision of facilities for dancing \*

Provision of facilities for entertainment of a similar description to Provision of facilities for making music, Provision of facilities for dancing \*

Supply of Alcohol

Hour's premises open to the public (Not licensable on it's own)

(\* Not previously licensed)

6. The following hours have been applied for in respect Films (*Indoors only*) and Indoor Sporting Events: -

Sunday to Thursday 1000 – 0000

Friday & Saturday 1000 – 0100

7. The following hours have been applied for in respect Live Music (*Both Indoors & Outdoors*) and The Provision of facilities for Making Music (*Both Indoors & Outdoors*): -

Monday to Sunday 1200 – 2300

8. The following hours have been applied for in respect of Recorded Music (*Both Indoors & Outdoors*): -

Monday to Thursday 1000 – 0000

Friday & Saturday 1000 – 0045

Sunday 1000 – 2345

9. The following hours have been applied for in respect of Anything similar to Live Music or Recorded Music (*Both Indoors & Outdoors*): -

Monday to Sunday 1000 – 2330

10. The following hours have been applied for in respect of Provision of facilities for making music (*Both Indoors & Outdoors*): -

Monday to Sunday 1000 to 2300

11. The following hours have been applied for in respect of Provision of facilities for dancing (*Both Indoors & Outdoors*) and for the Provision of facilities for entertainment of a similar description to Provision of facilities for making music, Provision of facilities for dancing (*Both Indoors & Outdoors*): -

Monday to Thursday	1000 – 2330
Friday & Saturday	1000 – 0045
Sunday	1000 – 2345

12. The following hours have been applied for in respect of supply of alcohol (*Both On & Off Premises*): -

Sunday to Thursday	1000 – 2330
Friday & Saturday	1000 – 0030

13. The hours that the premises will be open to members of the public

Sunday to Thursday	1000 – 0000
Friday & Saturday	1000 – 0100

14. **Non Standard hours**

The application applies for ‘**non-standard**’ hours.

In respect of Films, Indoor Sporting Events, Live Music, Recorded Music, Anything of a similar nature to recorded music or performance of dance, Provision of facilities for making music and Provision of facilities for dancing or Anything of a similar nature to Provision of facilities for entertainment similar to the provision of facilities of dance or making music, the applicant has stated the following: - ‘When hours for the sale of alcohol are extended on Bank Holidays and when TENS are issued these hours are extended ‘

In respect of the supply of alcohol: -

10.00 New years Eve to 0300 New Years Day  
10.00 - 0300 on Friday, Saturday, Sunday and Monday on Bank Holiday Weekends. Christmas Eve and Boxing Day

In respect of ‘Hours the premises are open to the public’: -

Closing on the non-standard days as listed in Section M with a 30 minute drinking up time added on.

15. **Removal of Conditions**

The applicant has applied to remove all embedded restrictions inherent in the Licensing Act 1964, The Cinematograph (Safety) Regulations 1955 and The Children and Young Persons Act 1933.

## 16. Summary of Representations

### **West Mercia Police**

West Mercia Police have no relevant representations to make.

### **Fire Authority**

The fire authority have no objections.

### **Environmental Health**

Environmental Health Officers have made representations in relation to the application. This representation addresses the licensing objectives of Public Nuisance and Public Safety.

In respect of Public Nuisance they seek conditions in relation to the prevention of noise.

With regards to public safety, they recommend some general conditions as well as conditions in relation to; Gas & Electrical Safety, Fire Safety, Lighting, and First Aid. With regard to the licensable activities of Indoor Sporting Events and Films they recommend a further two conditions.

At this time of this report negotiation was still taking place between the applicant and Environmental Health. Whilst it would appear most of the conditions are agreed there are still issues surrounding the outside area.

### **Interested Parties**

The Local Authority has received 1 letter of representation in respect of the application, from a local resident.

The concerns relate to:

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

## 17. Issues for Clarification

This Authority has requested clarification on particular points from the party shown.

### The Applicant – Peter Amor

Has been requested to provide clarification in respect of matters contained within his application, regarding the following activities: -

#### *Films*

The type and certification of the videos to be shown on the premises  
Whether or not it is intended to show any other type of film other than video entertainment on TV and Amusement Machines.

#### *Indoor Sporting Events*

The type of pub games the premises will be used for and whether spectators will be seated or not. If seat the number of seats to be provided.

*Anything of a similar description to live or recorded music*

Whether it is intended that the premises should be used for any other activity than as shown within the description of the type of entertainment to be provided.

*Provision of facilities for making music*

The type of equipment at the premises for the making of music.

*Provision of facilities for dancing*

Whether or not the premises have a clearly defined dance floor.

The details of the activities to be covered by this section.

*Provision of facilities for entertainment similar to Provision of facilities for making music or dancing*

The details of the activities to be covered by this section.

Clarification has also been asked for in respect of the actual hours the applicant applies for on Bank Holidays in respect of films, indoor sporting events, live music, recorded music, anything of a similar nature to live music, recorded music or performance of dance, provision of facilities for making music, provision of facilities for dancing and provision of facilities for entertainment similar to provision of facilities for making music or dancing.

Clarification has also been sort as to how the applicant intends to manage the so many licensable activates when the times applied involve so much variance.

## 18. **Herefordshire Council Licensing Policy**

In making its decision the committee will be obliged to have regard to its own policy, the DCMS guidance and have regard to all documents specified within the DCMS Guidance.

## 19. **Options:-**

It is for the committee to take such steps below as it considers necessary for the promotion of the licensing objectives:

- Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003.
- Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it necessary for the promotion

of the licensing objectives and add mandatory condition set out in the Licensing Act 2003.

- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To refuse to specify a person in the licence as the premise supervisor
- To reject the application.

## 20. **Background Papers**

- Public Representation Form
- Environmental health & Trading Standards Comments
- Application Form
- Any other associated papers

**Background papers are available for inspection in the Library, Shirehall 30 minutes before the start of the hearing.**

## **NOTES**

**Guidance issued under section 182 of the Licensing Act 2003, Section S18(7)**

### **Relevant, vexatious and frivolous representations**

5.73 A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives....

5.75 It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious....

The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness....

### **The operating schedule**

5.46 The operating schedule will form part of the completed application form for a premises licence. An operating schedule should include information which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory.

An operating schedule must also set out the following details:

the relevant licensable activities to be conducted on the premises;  
the times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during

particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year);

### **Pub games**

5.15 Games commonly played in pubs and social and youth clubs like pool, darts, table tennis and billiards may fall within the definition of indoor sports in Schedule 1, but normally they would not be played for the entertainment of spectators but for the private enjoyment of the participants. As such, they would not normally constitute the provision of regulated entertainment, and the facilities provided (even if a pub provides them with a view to profit) do not fall within the limited list of entertainment facilities in that Schedule (see paragraph 5.11 above).

It is only when such games take place in the presence of an audience and are provided to, at least in part, entertain that audience, for example, a darts championship competition, that the activity would become licensable.

### **Incidental music**

5.18 The incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated entertainment activities under the 2003 Act in certain circumstances. This is where they are incidental to another activity which is not itself entertainment or the provision of entertainment facilities.

So, for example, a juke box played in a public house at moderate levels would normally be regarded as incidental to the other activities there, but one played at high volume would not benefit from this exemption. Stand-up comedy is not regulated entertainment and musical accompaniment incidental to the main performance would not make it a licensable activity.

### ***Licensing Authorities power to exercise substantive discretionary powers.***

#### **The British Beer and Pub Association (2) The Association of Licensed Multiple Retailers (3) The British Institute of Inn keeping V Canterbury City Council.**

Contesting the validity of the Licensing policy that asks for certain requirements before the application has been submitted. In the summing up the Judge states; The scheme of the legislation is to leave it to applicants to determine what to include in their applications, subject to the requirements of Section 17 and the Regulations as to the prescribed form and the inclusion of a statement of specified matters in the operating schedule. An applicant who makes the right judgement, so that the application gives rise to no relevant representations, is entitled to the grant of a

licence without the imposition of conditions. The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision – making function under section 18 (3) is engaged.