

# A G E N D A

## Regulatory Sub Committee

Date: **Tuesday, 27th September, 2005**

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Time: **10.00 a.m.**

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Place: **The Library, Shirehall, Hereford**

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

*For any further information please contact:*

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01432 261885 Fax: 01432 260286*

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**County of Herefordshire  
District Council**



# AGENDA

## for the Meeting of the Regulatory Sub Committee

To: Councillors D.J. Fleet, J.W. Hope MBE and R.I. Matthews

	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 CROWN INN, WALWYN ROAD, COLWALL, WR13 6QP'</b> To consider an application for variation of the premises licence in respect of The Crown Inn, Walwyn Road, Colwall, WR13 6QP.	5 - 10
<b>6. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE DOG INN, EWYAS HAROLD, HR2 0EX'</b> To consider an application for variation of the premises licence in respect of The Dog Inn, Ewyas Harold, HR2 0EX. The Dog Inn, Ewyas Harold, HR2 0EX.	11 - 16



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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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Please Note:

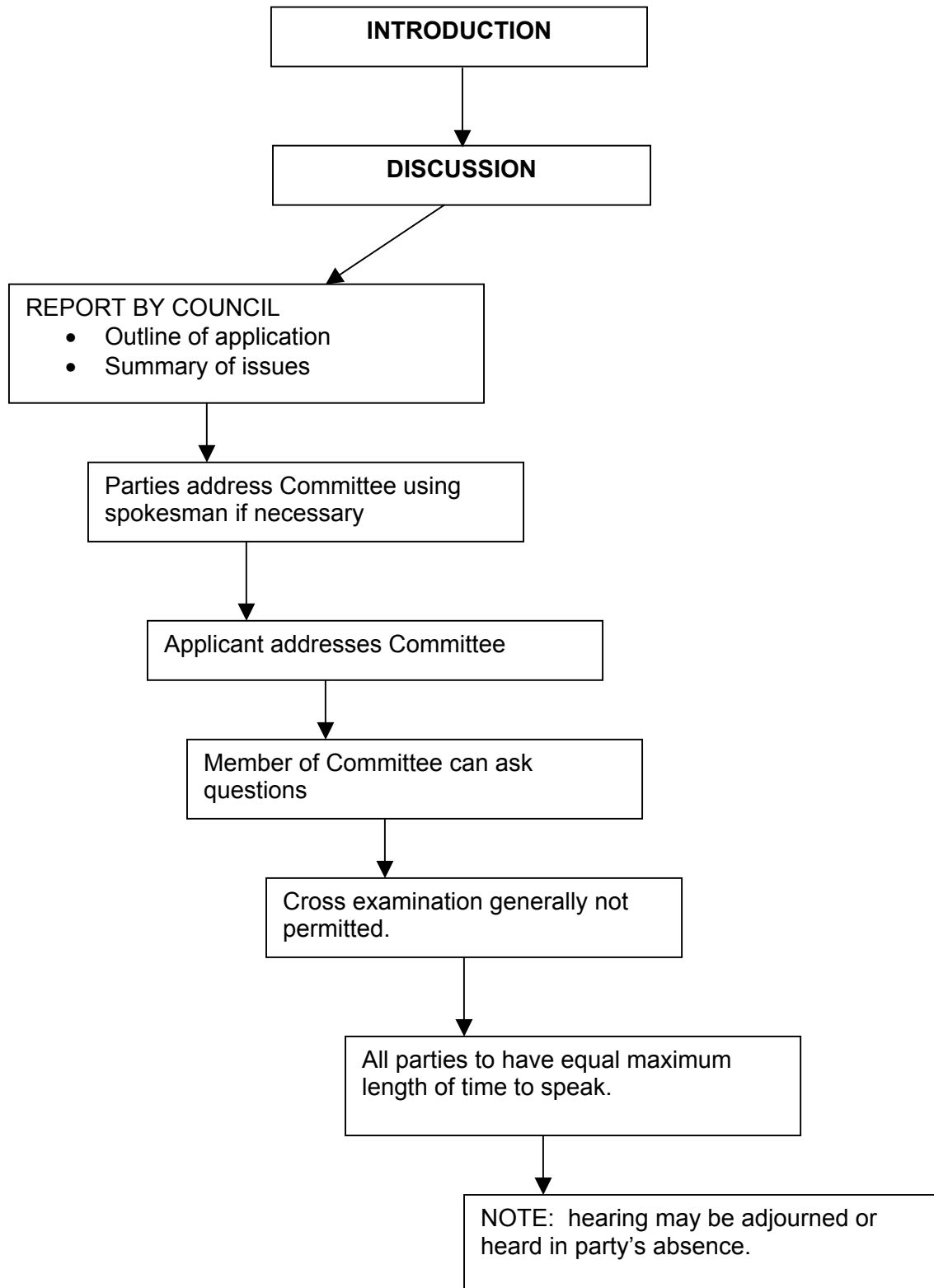
Agenda and individual reports can be made available in large print, Braille or on tape. Please contact the officer named below in advance of the meeting who will be pleased to deal with your request.

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## LICENCING HEARING FLOW CHART







## APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE CROWN INN, WALWYN ROAD, COLWALL. WR13 6QP' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Hope End

### 1. Purpose

To consider an application for variation of the premises licence in respect of The Crown Inn, Walwyn Road, Colwall, WR13 6QP.

### 2. Background Information

Applicant	<b>Kenneth Robert MULHOLLAND</b>		
Solicitor	<b>N/A</b>		
Type of application: <b>Variation</b>	Date received: <b>29/07/05</b>	28 Days consultation <b>26/08/05</b>	Issue Deadline: <b>28/09/05</b>

The Justices Licence for the premise has been seen and accepted. The advertisement has not been seen at this time.

### 3. Conversion Licence Application

The premises currently only has a Justices On Licence. A conversion licence has been issued as follows: -

Licensable activity	Hours
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

The premise does not have a Public Entertainment Licence.

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).

**4. Variation Licence Application**

The application for a variation has received representations by responsible authorities and from interested parties. It therefore is now brought before the sub-committee for determination.

**5. Summary of Application**

The licensable activities applied for are: -

Films \*

Indoor Sporting Events \*

Recorded Music \*

Anything of a similar nature to Live Music, Recorded Music or Performance of Dance \*

Provision of facilities for making music \*

Supply of Alcohol

(\* Not previously licensed)

**6. The following hours have been applied for (*Indoors Only*) in respect of Films, Indoor Sporting Events and Recorded Music: -**

Monday to Thursday 1100 – 0030

Friday & Saturday 1100 – 0130

Sundays 1100 – 2330

**7. The following hours have been applied for (*Indoors Only*) in respect of Anything of a similar nature to Live Music, Recorded Music or Performance of Dance: -**

All days of the week 1100 – 0000

**8. The following hours have been applied for (*Indoors Only*) in respect of Provision of facilities for making music and the supply of Alcohol (Both on & off premises): -**

Monday to Thursday 1100 – 0000

Friday & Saturday 1100 – 0100

Sundays 1100 – 2300

The premises to remain open for a further 30 minutes after these times.

**9. Non Standard hours**

The application applies for '**non-standard**' hours in respect films, indoor sporting events and recorded music and states the following:-

When hours for sale of alcohol are extended on Bank Holidays these hours are also extended between 1100 and 0130.

In respect of the sale of alcohol it states: -

1100 – 0100 on Sundays of Bank Holiday weekends, Christmas Eve and Boxing Day.

**9. 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

**10. Summary of Representations****West Mercia Police**

Have made no representation.

**Environmental Health**

Environmental Health Officers have made representations in relation to the application. This representation addresses the licensing objectives of Public Safety, the Prevention of Public Nuisance and the Protection of Children from Harm.

In respect of public safety they ask for three general conditions and conditions to address Overcrowding, Ventilation & heating, First Aid, Lighting, Electrical & Gas Installations, Fire Safety and the removal of open containers. They also seek three further conditions in respect of Films and Indoor Sporting Events.

With regard to public nuisance they request three conditions to address Noise and Vibration.

In respect of the protection of children from harm they seek a further five conditions.

At the time of this report, the applicant has indicated that he would be willing to accept them and his written agreement is awaited.

A copy of the suggested conditions can be found within the background papers.

**Fire Authority.**

The fire authority has made no representation.

**Interested Parties.**

The application has received 6 letters of representation from members of the public. Only 1 of these was received within the 28 day period. It has been established that a member of the public, who wished to make representation, were advised by this Authority, that the 28 day period concluded on 29<sup>th</sup> September. This in fact was the latest issue date for the licence and not the end of the 28 day period. Legal advice has been obtained from our solicitors in respect of this and it has been decided that only those representations received up to the date the error was discovered would be accepted.

**11. Issues for Clarification**

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

The Applicant - Kenneth Robert MULHOLLAND

Has been requested to provide clarification in respect of matters relating to the application as follows: -

Films

The type and certification of the videos to be shown on the premises. Confirmation that the films will be restricted to 'Video Entertainment on TV screens and amusement screens'.

Indoor Sporting Events

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

Anything of a similar nature to Live Music, Recorded Music or Performance of Dance

Confirmation that the only activities to be licensed are as shown within 'the description' shown in Box H of the application form.

**12. 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 submitted in respect of the application.

**13. 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.

**14. Background Papers**

- Public Representation
- Environmental Health & Trading Standards Comments
- Application Form

**Background papers are available for inspection in the Library, Shirehall, Hereford 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....

**COMPARES****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.



## APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE DOG INN, EWYAS HAROLD, HR2 0EX' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Golden Valley South

#### 1. Purpose

To consider an application for variation of the premises licence in respect of The Dog Inn, Ewyas Harold, HR2 0EX.

#### 2. Background Information

Applicant	<b>Tony BLOWS</b>		
Solicitor	<b>Poppleston Allen, 37 Stoney Street, The Lace Market, Nottingham. NG1 1LS.</b>		
Type of application: <b>Variation</b>	Date received: <b>03/08/05</b>	28 Days consultation <b>31/08/05</b>	Issue Deadline: <b>02/10/05</b>

The Justices Licence has been seen and accepted. The advertisement for the premises has not seen at this time.

#### 3. Conversion Licence Application

The premises currently hold a Justices On Licence. A conversion licence, has been issued as follows; -

Licensable activity	Hours
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 public entertainment licence.

**4. Variation Licence Application**

The application for a variation has received representations by responsible authorities and interested parties. It is therefore now brought before the sub-committee for determination.

**5. Summary of Application**

The licensable activities applied for are: -

Indoor Sporting Events \*

Live Music \*

Provision for facilities for making music \*

Provision for facilities for dance \*

Supply of Alcohol

(\* Not previously licensed)

**6. The following hours have been applied for in respect of (*Indoors only*) Live Music: -**

Monday to Saturday            0900 – 0100

Sunday                            0900 – 0900 Monday

**7. The following hours have been applied for in respect (*All Indoors only*) Indoor Sporting Events, Provision for facilities for making music, Provision for facilities for making dance and the supply of alcohol (*Both On & Off Premises*): -\***

All days of the week                    0900 – 0100

The premises to be open for a further 30 minutes after these times.

**8. Non Standard hours**

The application applies for '**non-standard**' hours in all the licensable activities applied (except sale of alcohol): -

New Years Eve – from the end of permitted hours on New Years Eve until the start of permitted hours on New Years Day

In respect of the hours the premises are open to the public: -

New Years Eve – from the end of permitted hours on New Years Eve until the start of permitted hours on New Years Day

An additional hour to the standard permitted hours on the day when British Summertime commences.

**10. Removal of Conditions**

The application applies to remove the following conditions: -

Any restrictions which are placed on the licence by virtue of S8 paragraph 6(8) of the Licensing Act 2003 except: -

1. The extended permitted hours for the sale and consumption of alcohol and provision of regulated entertainment on New Years Eve/New Years Day



2. On the commencement of British Summer Time, the benefit of the clock going forward at 2.00 am or 3am in central London, instead of 1.00am GMT.

The restriction on drinking up time to be replaced with the finish time in Box 0

## 11. **Summary of Representations**

### **West Mercia Police**

Have no representation to make.

### **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 and vibration, the use of the beer garden and the curtailing of some of the hours applied for.

In respect of public safety they ask for three general conditions and conditions to address Gas and Electricity Safety, Lighting and First Aid.

They request a further condition in relation to Indoor Sporting Events.

No conditions have been agreed at the time of this report.

The suggested conditions can be found within the background papers.

### **Fire Authority.**

The fire authority has made comment upon the fact that the public capacity is stated as 100, which the authority have not verified.

### **Interested Parties.**

The Local Authority has received 2 letters of representation in respect of the application, from local residents.

The concerns relate mainly to:

- Prevention of Public Nuisance
- Protection of Children from Harm

## 12. **Issues for Clarification**

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

### Applicant – Tony BLOWS

Has been requested to provide clarification in respect of matters relating to the application as follows: -

Live Music

It has been noted that the application contains two pages in respect of the application for live music. The first page, which is unnumbered, applies for live music from 0900 hours Sunday to 0900 Monday. The second page numbered 10 appears to apply for the hours from 0900 to 0100 on Sundays, with the statement in non-standard timings concerning New Years Eve, having been crossed through.

The applicant has been asked to state which page relates to the application.

Provision for facilities for making music

Within this part of the application the 'details' regarding this activity state 'A DJ may be provided for discos etc'. It has been noted that the application form makes no application for recorded music.

The applicant has been asked to state exactly the reason why they apply for this on their licence.

Dancing

It is noted from the application that within the further for this activity it states 'Any area may be provided to allow dancing'.

The applicant has been asked to provide an updated plan to show the area where dancing will take place.

Removal of Conditions

The applicant has been asked to clarify the meaning of the statement 'On the commencement of British Summer Time, the benefit of the clock going forward at 2.00 am or 3am in central London, instead of 1.00am GMT'.

Toilets at Premises

Clarification is sort is as to whether the toilets are integral to the premises or external.

Car Parking

It is noted from the plan that there is no car park shown. The applicant has been asked to specify the location of the car park for the premises.

Description of Premises

The description of the premises states that 'The nearest neighbours are within 500 metres'. Clarification is sort as to the proximity of neighbours to the public house.

### 13. 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.

**14. 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.
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- To refuse to specify a person in the licence as the premise supervisor
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**17. Background Papers**

- Police Comments
- Environmental Health & Trading Standards Comments
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**NOTES****Guidance issued under section 182 of the Licensing Act 2003, Section S18(7)****Relevant, vexatious and frivolous representations**

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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....

**LACORS Guidance**

The following guidance was issued by LACORS on 14<sup>th</sup> June 2005: -

‘providing facilities for the public to dance is a licensable activity in terms of providing ‘entertainment facilities’ (Licensing Act 2003 Schedule 1 Paragraph 3(1) &

3(2)). **Therefore, the area where public dancing is to take place needs to be shown on the plan.** The precise location of the dance floor is unlikely to be necessary to be shown though, as long as the relevant room/part of the building is clearly marked.

**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.