

# A G E N D A

## Regulatory Sub Committee

Date: **Tuesday, 27th June, 2006**

---

Time: **2.00 p.m.**

---

Place: **The Council Chamber,  
Brockington, 35 Hafod Road,  
Hereford**

---

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)***

---



# AGENDA

## for the Meeting of the Regulatory Sub Committee

To: Councillors G.W. Davis, Brig. P. Jones CBE 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 A NEW PREMISES LICENCE 'SHOCK, S&amp;A PRODUCE LTD, BROOK FARM, MARDEN, HR1 3ET '</b>	7 - 12
To consider an application for a new premises licence in respect of 'Shock, S&A Produce Ltd, Brook Farm, Marden, HR1 3ET'	



# **The Public's Rights to Information and Attendance at Meetings**

## **YOU HAVE A RIGHT TO: -**

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- 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 Cabinet and 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, Cabinet, 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.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

## **Please Note:**

Agenda and individual reports can be made available in large print. Please contact the officer named on the front cover of this agenda **in advance** of the meeting who will be pleased to deal with your request.

The meeting venue is accessible for visitors in wheelchairs.

A public telephone is available in the reception area.

## **Public Transport Links**

- Public transport access can be gained to Brockington via the service runs approximately every half hour from the 'Hopper' bus station at the Tesco store in Bewell Street (next to the roundabout junction of Blueschool Street / Victoria Street / Edgar Street).
- The nearest bus stop to Brockington is located in Old Eign Hill near to its junction with Hafod Road. The return journey can be made from the same bus stop.

If you have any questions about this agenda, how the Council works or would like more information or wish to exercise your rights to access the information described above, you may do so either by telephoning the officer named on the front cover of this agenda or by visiting in person during office hours (8.45 a.m. - 5.00 p.m. Monday - Thursday and 8.45 a.m. - 4.45 p.m. Friday) at the Council Offices, Brockington, 35 Hafod Road, Hereford.

## **COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

### **FIRE AND EMERGENCY EVACUATION PROCEDURE**

In the event of a fire or emergency the alarm bell will ring continuously.

You should vacate the building in an orderly manner through the nearest available fire exit.

You should then proceed to Assembly Point J which is located at the southern entrance to the car park. A check will be undertaken to ensure that those recorded as present have vacated the building following which further instructions will be given.

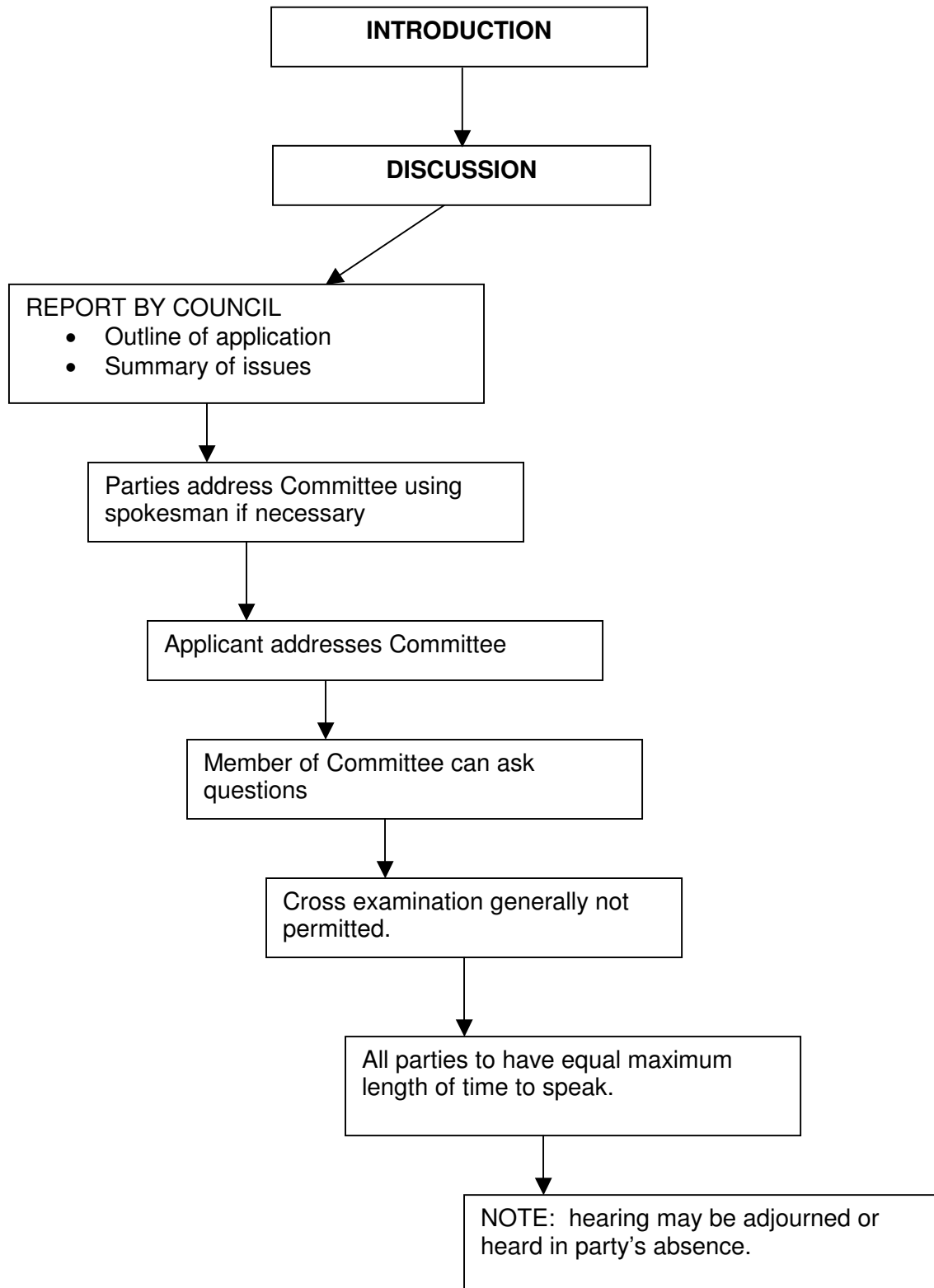
Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.





## LICENCING HEARING FLOW CHART





## APPLICATION FOR A NEW PREMISES LICENCE 'SHOCK, S& A PRODUCE LTD, BROOK FARM, MARDEN, HR1 3ET '- LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Sutton Walls

### Purpose

- To consider an application for a new premises licence to provide an entertainment area and bar for workers living on, or near to the site.

### Background Information

Applicant	<b>Graham John Neal</b>	
Solicitor	<b>N/A</b>	
Type of application:	Date received:	28 Days consultation
<b>New</b>	<b>08/05/06</b>	<b>05/06/06</b>

- The advertisement for the premises was received on 16th May, 2006 it states the proposed licensable activities as:- a bar, films, plays, music and dance between 11:00 – 01:00. There is no mention of late night refreshment on the advertisement.

### New Licence Application

- The application for a licence has received representations from interested parties. It is therefore now brought before the sub-committee for determination.

### Summary of Application

- The licensable activities applied for are: -  
Plays  
Films  
Live Music  
Recorded Music  
Performance of Dance  
Provision of facilities for making music  
Provision of facilities for dancing  
Late Night Refreshment  
Supply of Alcohol
- The following hours have been applied for in respect of Plays, (Indoors only): -  
Monday to Sunday                      17.00 - 00.00

6. The following hours have been applied for in respect of Plays, Recorded Music, Performance of Dance, Dancing, Provision of facilities for making Music, Late Night Refreshment (Indoors only):  
Monday to Sunday 13.00 - 00.00
7. The following hours have been applied for in respect of Live Music (indoors Only) : -  
Monday to Sunday 13.00- 01.00
8. The following hours have been applied for in respect of the supply of alcohol (on and off the premises ) : -  
Monday to Sunday 11.00- 00.30
9. The following hours have been applied for in respect of the hours that the premises are open to the public  
Monday to Sunday 11.00 – 01.00

### **Non Standard hours**

10. There is no application for '**non-standard**' hours.

### **Summary of Representations**

11. **West Mercia Police**  
Has no comment to make on Crime and Disorder a copy is attached to the background papers.
12. **Environmental Health**  
Environmental Health Officers has made representations in relation to the application (attached). This representation addresses the licensing objective Public Nuisance and Public Safety.
13. **Issues for clarification**  
The Licensee has been requested to provide clarification in respect of matters relating to the application as follows:-
  - To identify on the plan where the licensable activities are to take place.
  - More detail on provision of Late Night Refreshment who and how it will be provided.
14. **Interested Parties**  
The Local Authority has received 19 letters of representation (1 unsigned) in respect of the application, from interested parties a copy is attached to the background papers.  
  
The concerns relate to:
  - Prevention of crime and disorder
  - Public Safety
  - Prevention of Public Nuisance
  - Protection of Children from Harm

A summary of the suggested conditions made by the public representees can be found as an appendix to this report. Full copies of the public representations can be found in the background papers.

---

## Herefordshire Council Licensing Policy

15. 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.

### Options: -

16. 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.

### Background papers

- Public presentation
- Police Comments
- Environmental Health & Trading Standards Comments
- Application Form

**Background papers are available for inspection in the Council Chamber, Brockington, Hafod Road, Hereford HR1 1 ES**

**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....

**Schedule 2 of the Licensing Act 2003 states: -**

The provision of late night refreshment

- 1 (1) For the purposes of this Act, a person "provides late night refreshment" if-
- (a) at any time between the hours of 11.00 p.m. and 5.00 a.m., he supplies hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises, or
  - (b) at any time between those hours when members of the public, or a section of the public, are admitted to any premises, he supplies, or holds himself out as willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises

**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.

## **Summary of Suggested Conditions by the Public Representees.**

### **To prevent crime and disorder**

- Close at 10pm
- One social function Monthly
- Alcohol only available for a limited time each day and that the overall time period should be limited to when the majority of workers are on site.
- No extension to current hours of drinking.

### **Public Safety**

- One Social Function Monthly
- Complete ban on cars for the seasonal workers

### **To Prevent Public Nuisance**

- Once a Month
- One Social Function Monthly
- Party and Barbeque once a month – all workers to stay on site
- Close at 10pm
- One function per week
- Noise levels must be kept to a level which does not intrude into householders environs
- Noise to be contained within the premises and with no effects on neighbouring properties any time day or night.
- Reduce hours and stop parties/noise at 11pm
- Live and recorded music limited to no more than one evening 18:00 to 22:30 a week
- Playing of music shall be restricted to within the designated building.
- The building shall be subject to appropriate acoustic treatment and there will be no opening, other than fire doors recommended by the Fire Authority, on the aspects facing the village of Marden. If such doors are required a further condition be imposed that the doors be kept closed at all times other than if required for emergency evacuation.
- If technically feasible, a noise-limiting device be installed and “set” by the Council.
- No noise/sound emanating from this building be audible within the garden to any privately owned dwelling in the village of Marden.
- Entertainment shall be for the exclusive benefit of A&A employees who reside on their site at Brook Farm, Marden and no others whatsoever (this exclusion to cover the public in general and all S&A employees who reside elsewhere).
- The licence is restricted to the months of the year when the student workers are in occupation.
- Some form of binding commitment that any application will reduce noise levels
- Entertainment held once a month
- No music or Entertainments Licence
- No extension to current hours of drinking

### **Protect Children from Harm**

- One Social Function Monthly
- Make sure all workers stay on site - no one allowed into the village
- Minimum age defined as 18 years of age
- Restrict the workers from entering the main village

