

MINUTES of the meeting of Regulatory Sub Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday, 17th August, 2007 at 10.00 a.m.

Present: Councillor JW Hope MBE (Chairman)

Councillors: SPA Daniels and A Seldon

14. ELECTION OF CHAIRMAN

Councillor JW Hope was elected as Chairman for the Regulatory Sub-Committee hearing.

15. APOLOGIES FOR ABSENCE

Apologies were received from Councillor JHR Goodwin.

16. NAMED SUBSTITUTES (IF ANY)

Councillor A Seldon was named as a substitute for Councillor JHR Goodwin.

17. DECLARATIONS OF INTEREST

There were no declarations of interest made.

18. APPLICATION FOR VARIATION OF PREMISES LICENCE 'CLUB MO, 1 GAOL STREET, HEREFORD, HR1 2HU.' (Pages 1 - 6)

The Sub-Committee were required to hear and determine an opposed application for a new premises licence for Club MO. The Chairman introduced the Sub-Committee and Officers and confirmed that all members of the Sub-Committee had seen and read the background papers. He then requested that any persons making representations make themselves known. There were no representatives present at the meeting.

The Licensing Officer presented his report to the Sub-Committee. He confirmed that the applicant had advised him that he would not be present at the meeting and that a letter had been received from the applicant requesting that determination of the application be deferred until a later date. In response to a question raised by the Legal Advisor, the Licensing Officer confirmed that the applicant had received notification of the meeting date and location in writing, he also advised the sub-committee that the letter had been sent within the statutory time limits set out in the Licensing Act 2003 Hearing Regulations (2005). The Licensing Officer also noted that he had spoke to the applicant on Tuesday 14th August and that the applicant had indicated that he had mislaid the notification letter and was under the impression that the meeting was due to take place on Thursday 16th August. A copy of the notification letter is attached as an appendix to the minutes.

In response to a further question from the Legal Advisor, the Licensing Officer advised members of the criteria for deferring determination of an application as set out in Para 13 (1) of the Licensing Act 2003 Hearings Regulations (2005). He

confirmed that an application could only be deferred if the sub-committee felt that it was in the public interest to do so.

Members felt that the applicant had received sufficient notice of the meeting date and location and that it would not be in the public interest to defer consideration of the application. It was also noted that the notification letter also advised the applicant that he could be represented by a professional representative at the meeting if he was not able to attend.

The Environmental Protection Manager advised the sub committee of a number of concerns that the Environmental Health department had with the application. These concerns were in relation to the public safety and public nuisance aspects of the Licensing Act 2003.

The sub-committee were concerned that bottles and empty containers could be thrown from the first floor and cause injury to patrons below. They also felt that the application did not contain enough information regarding the strength of the roof. They noted that there were a number of residential dwellings in the area and that there was insufficient evidence as to how noise egress would be controlled.

The Regulatory Sub-Committee withdrew from the meeting to make their decision. They requested that the Legal Advisor and Democratic Services Officer accompany them to offer procedural advice.

RESOLVED:

That the application for a variation to the premise licence in respect of Club MO, 1 Gaol Street, Hereford, HR1 2HU, be rejected for the reasons outlined in the attached decision notice.

The meeting ended at 10.40 a.m.

CHAIRMAN



HEREFORDSHIRE COUNCIL

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

PREMISES	Club MO
APPLICANT'S NAME	Mr. S. Harrison
APPLICATION TYPE	Variation
PANEL MEMBERS	Councillor J.W. Hope (Chairman) Councillor S.P.A. Daniels Councillor A. Seldon
DATE OF MEETING	17th August, 2007

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.

As a preliminary issue the sub-committee considered the letter received from the applicant dated 15th August, 2007 requesting the adjournment of the consideration of his application. The sub-committee were advised by the Licensing Officer of the criteria as set out in the Licensing Act 2003 (Hearings Regulations 2005) Paragraph 11 (1). The Council's Legal Advisor requested that the Licensing Officer satisfy them that the applicant had received timely and correct information including notification of the date and location of the meeting. This was done to its satisfaction. As a preliminary issue the sub-committee decided:-

- (1) That there was no public interest justifying its granting of an adjournment, and
- (2) That the applicant had received proper notice of the meeting. The sub-committee also noted that the applicant could have sent a professional representative to the meeting in his absence.

The sub-committee therefore proceeded to consider the application in the applicant's absence.

Prior to making their decision, the Members heard from the Licensing Officer and the Environmental Protection Manager.

Having heard the representations and considered all of those matters brought before them, the Panel decided to **REFUSE** the said application on the basis that the application was not consistent with promoting the licensing objectives within the meaning the Licensing Act 2003. The following reasons for refusal were noted:

HEREFORDSHIRE COUNCIL

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

PUBLIC SAFETY

- (a) Empty containers could be thrown from the first floor causing a risk to patrons and members of the public below.
- (b) Concerns regarding the safety of members of the public in relation to the flat roof and its suitability.

PREVENTION OF PUBLIC NUISANCE

- (c) Concerns regarding inappropriate levels of noise and lack of details in the application as to how escape of noise should be controlled.

The Members further considered that if they had granted the application, there would be no suitable conditions which could be imposed in order to adequately address the said licensing objectives.

Environment

Director: Michael Hainge

ADDRESS REMOVED

Your Ref:

Our Ref: PREM/Club MO

Please ask for: Licensing Assistant

Direct Line / Extension: 01432 260105

Fax: 01432 383142

E-mail: licensing@herefordshire.gov.uk

03 August 2007

Dear Mr Harrison,

**LICENSING ACT 2003
PREMISES LICENCE APPLICATION (VARIATION)**

You should read the whole of this letter as it contains important information, which may affect the grant of your licence.

I refer to your recent application for a Premises Licence in respect of the above premises. As you are aware there had to be a 28-day consultation period to allow the various 'responsible authorities' and 'interested parties' to make any representation.

I can now inform you that representation(s) have been received and are enclosed.

Due to representations having been received, a date now has been arranged for this matter to be heard before members of the Regulatory Licensing Committee of Herefordshire Council (hereafter referred to as the authority). The hearing will be as follows: -

Date: Friday 17th August

Time: 10.00am

Place: Council Chambers, Brockington, 35 Hafod Road, Hereford, HR1 1SH



Putting People First Providing for our Communities Preserving our Heritage Promoting the County Protecting our Future

County of Herefordshire District Council,

Licensing Section

County Offices, PO Box 233, Bath Street, Hereford HR1 2ZF

Main Switchboard (01432) 260000 - www.herefordshire.gov.uk

Clarification on a particular point

To assist with the hearing, the authority will want clarification on the following point(s): -

The requested information shall be given to the Committee at the hearing in support of your application, representation or notice.

Your Rights

You may attend the hearing and may be assisted or represented by any person whether legally qualified or not.

You may address the authority at the hearing, however you must request the permission of the authority to question any other party.

The Committee will require anyone behaving in a disruptive manner to leave the hearing. If they are not permitted to return to address the Committee, the Committee will allow them to submit, in writing, the information they would have been entitled to give orally had they not been required to leave.

Failure of parties to attend the hearing

If you have informed the authority that you do not intend to attend the hearing or be represented at it, then it may proceed in your absence.

If you have not informed us that you will not be attending, or fail to attend or be represented at the hearing, then the authority may either: -

- a) adjourn the hearing, where it considers it to be necessary in the public interest to do so, to a specified date or
- b) hold the hearing in your absence

If the hearing is adjourned you will be notified forthwith of the new date, time and place of the hearing.

If the hearing is held in your absence then the authority will consider your application and any representation or notice made by you.

Procedure at hearing

The procedure that will be followed at the hearing is explained on the attached sheet, headed 'Licensing Act 2003 Procedure & Guidance Notes for Hearings'.

ACTION REQUIRED ON RECEIPT OF THIS NOTICE

Please complete the attached 'Notice of Intention' and return it to us confirming whether or not: -

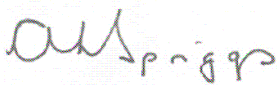
- you will be attending the hearing or represented
- you consider the hearing to be unnecessary and the reasons why
- you request permission for another person to appear at the hearing to make on your behalf a point or points on which that person may be able to assist the authority in respect of the application, representation or notice
- you wish us to keep you updated by email.

Advertisement of Application

As your application was for a variation of your licence you were required to advertise this in the local press, please include a copy of this advertisement when returning the 'Notice of Intention'.

Should you have any queries or require any additional information, please contact the Licensing Helpline on 01432 260105.

Yours sincerely,



**MR FRED SPRIGGS
LICENSING OFFICER
LICENSING SECTION
ENVIRONMENTAL HEALTH & TRADING STANDARDS**

ENC.

Copy of Representations
Copy of Guidance Notes & Procedure
Notice of Intention

The contents of this letter are based upon the information required within 'The Licensing Act 2003 (Hearings) Regulations 2005'. In the event of any conflict then the regulations will prevail. A copy of these regulations can be found on the DCMS website or are available for viewing at the address shown on the bottom of the first page of this letter.

