

A G E N D A

Regulatory Sub Committee

Date: **Wednesday, 5th September, 2007**

Time: **10.00 a.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

**County of Herefordshire
District Council**



HEREFORDSHIRE
COUNCIL

AGENDA

for the Meeting of the Regulatory Sub Committee

To: Councillors PGH Cutter, JHR Goodwin and JW Hope MBE

	Pages
1. ELECTION OF CHAIRMAN To elect a Chairman for the hearing.	
2. APOLOGIES FOR ABSENCE To receive apologies for absence.	
3. NAMED SUBSTITUTES (IF ANY) To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
4. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
5. APPLICATION FOR A NEW PREMISES LICENCE 'THE OXFORD ARMS HOTEL, DUKE STREET, KINGTON, HR5 3DR. To consider an application for a new premises licence in respect of The Oxford Arms Hotel, Duke Street, Kington, HR5 3DR.	1 - 4
6. APPLICATION FOR VARIATION OF PREMISES LICENCE 'SOUTH STREET STORE, LEOMINSTER, HEREFORD, HR6 8JF.' To consider an application for a new premises licence in respect of South Street Stores, Leominster, Hereford, HR6 8JF.	5 - 8

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.

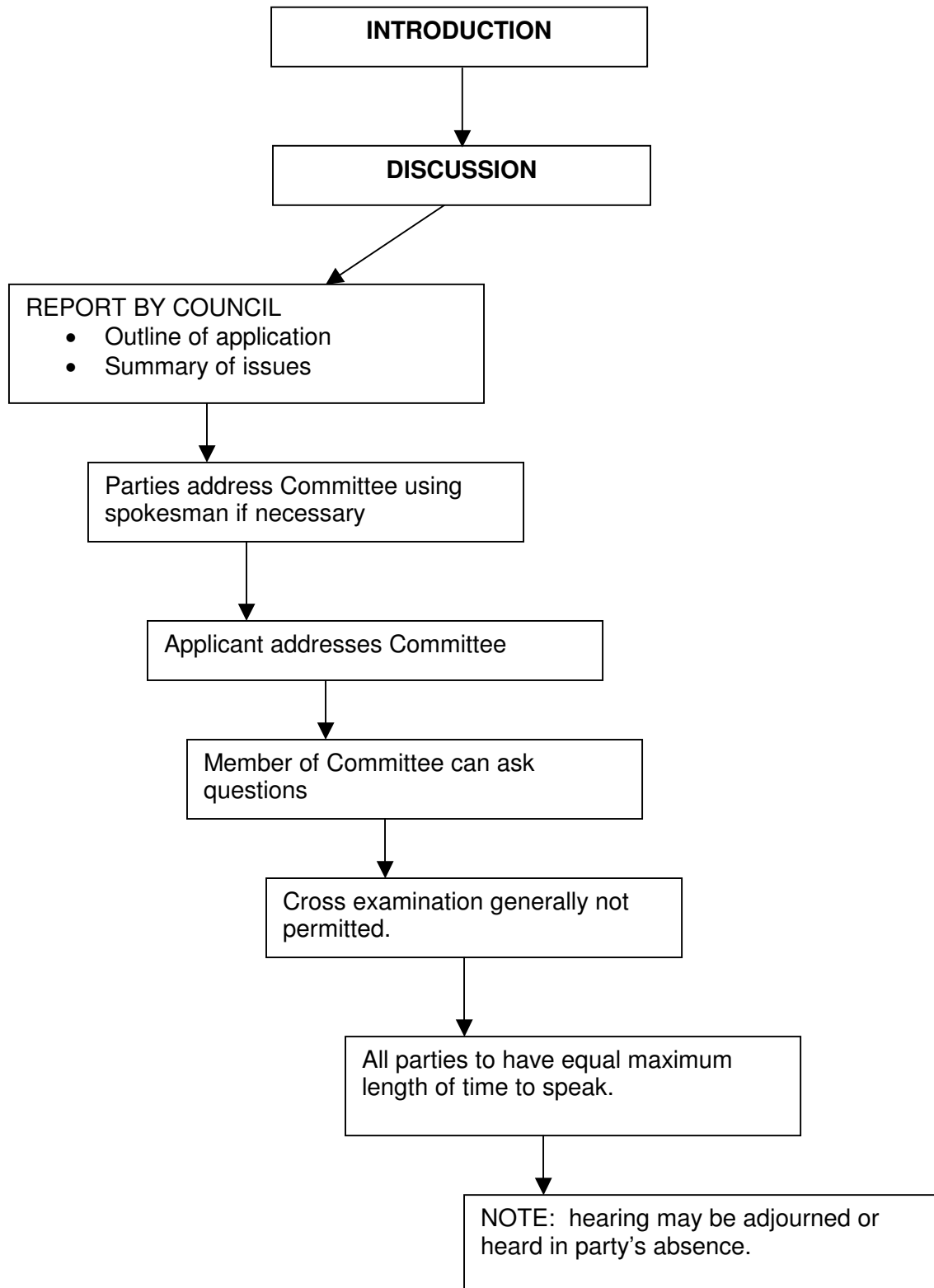
You should vacate the building in an orderly manner through the nearest available fire exit.

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 PREMISES LICENCE 'THE OXFORD ARMS HOTEL , DUKE STREET, KINGTON, HR5 3DR' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Kington Town

1. Purpose

To consider an application a premises licence in respect of The Oxford Arms Hotel, Duke Street, Kington, HR5 3DR.

Background Information

Applicant	Mr Hogarth .	
Agent	Mr Robin Mence Sidney Phillips Ltd , Eaton Bishop, Hereford, HR2 9UA.	
Type of application:	Date received:	28 Days consultation
	18/7/07	14/8/07

The advertisement for the premises has been seen and accepted.

2. Licence Application

The previous licence lapsed when the owners of the business became insolvent a number of years ago. The new owner now wishes to re-open the premises and has applied for a new premises licence. Details of the previous licence are contained within the background papers. The application has received representations from responsible authorities and local residents

3 Summary of Application

Licensable activities applied for are :-

Films,

Live Music,

Recorded Music,

Anything of a similar description

Provision of facilities for making music, dancing, entertainment of a similar description.

Supply of Alcohol

4 The Following hours have been applied for in respect of, films (indoors)

Monday – Saturday 11.00 – 23.00

Sunday 12.00 – 23.00

- 5 The following hours have been applied for in respect of, live music, dancing , anything of a similar description, provision of facilities for making music, dancing entertainment of a similar description (All indoors) and recorded music (indoors and outdoors):-

Monday – Thursday	11.00 – 23.00
Friday – Saturday	11.00 – 01.00
Sunday	12.00 – 23.00

- 6 The following hours have been applied for in respect of the supply of alcohol on and off the premises:-

Monday – Thursday	11.00 – 23.00
Friday – Saturday	11.00 – 01.00
Sunday	12.00 – 23.00

- 7 The hours the premises are to be open to the public:-

Monday – Thursday	11.00 – 23.30
Friday – Saturday	11.00 – 01.00
Sunday	12.00 – 23.30

- 8 **Non Standard hours**

None

- 9 **Summary of Representations**

There are 21 public representations in objection to the extension of hours. The Concerns are in respect of late night noise and drink fuelled crime and disorder. Copies of these representations can be found within the background papers. Summaries of licences for some of the other licensed premises in Kington have been attached in the background papers.

West Mercia Police

Have made representation in respect of the prevention of crime & disorder.

Environmental Health

The Environmental Health Officer has made a number of representations in relation to the application in respect of the prevention of noise nuisance.

Fire Authority.

The fire authority has made no comment.

- 10 **Interested Parties**

The Local Authority has received twenty two (22) letters of representation in respect of the application from local residents.

11 Issues for Clarification

This Authority has requested that the applicant confirm the name of the premises supervisor. The person named on the application form does not hold a personal licence.

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 specified within the DCMS Guidance.

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

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

Background papers are available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford, 30 minutes before the start of the hearing.

NOTES**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.

Guidance issued under section 182 of the Licensing Act 2003

Section 6 deals with guidance relating to opening hours of shops and supermarkets and Section 3.51 provides advice regarding planning and other regulatory functions linked to planning see background papers document.

APPLICATION FOR A NEW PREMISES LICENCE SOUTH STREET STORES, LEOMINSTER, HR6 8JF; - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Leominster South

1. Purpose

To consider an application for a new premises licence in respect of South Street Stores, Leominster, Hereford, HR6 8JF.

2. Background Information

Applicant	Craig Bradbury	
Solicitor	N/A	
Type of application: New	Date received: 17/07/07	28 Days consultation 13/08/07

The advertisement for the premises has been seen and is correct.

3. Licence Application

There was previously a shop on the site, the business closed several years ago. The new owner has applied for a premises licence to allow the sale of alcohol. Representations have been received from responsible authorities and local residents. It is therefore now brought before the sub-committee to determine the application.

4. Summary of Application

The licensable activities applied for are: -
Sale of alcohol

5 The following hours have been applied for in respect of the sale of alcohol (off the premises): -

Monday – Sunday 0600 –2100

6 The premises are to be open to the public: -

Monday – Sunday 0600 –2100

7 Non Standard Hours

None

8 Summary of Representations

Copies of the representations and suggested conditions can be found within the background papers.

9 West Mercia Police

Have no representation to make.

10 Environmental Health

Environmental Health Officers have made representation in relation to the prevention of public nuisance and the protection of children from harm.

11 Fire Authority.

The fire authority has no objection to the grant of the licence.

12 Interested Parties.

The Local Authority received four (4) letters of representation in respect of the application from local residents. These were regarding safety and the fact that there are already two off licences nearby. Summaries of the licenses for Aldi and Somerfield in Leominster are included in the background papers.

13 Negotiation

The Licensing Officer has contacted the applicants in respect of the representations received. Copies of the representations from members of the public have been forwarded to the applicants.

14 Issues for Clarification

This Authority has not requested clarification on any particular points.

15 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.

16 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.

17 Background Papers

- Environmental Health & Trading Standards Comments
- Application Form
- Copies of representation from interested parties.
- Location plan

Background papers were available for inspection in the Council Chamber, Brockington, 35 Hafod Road, 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....

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.

Guidance issued under section 182 of the Licensing Act 2003

Section 6 deals with guidance relating to opening hours of shops and supermarkets and Section 3.51 provides advice regarding planning and other regulatory functions linked to planning see background papers document.