

Regulatory Sub Committee

Date: **Wednesday, 16th January, 2008**

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, Democratic Services Officer, Tel:
01432 261885 Fax: 01432 260286
E-mail: rclarke@herefordshire.gov.uk*

**County of Herefordshire
District Council**

AGENDA

for the Meeting of the Regulatory Sub Committee

To: Councillors CM Bartrum, JHR Goodwin and P Jones CBE

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.

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is and leave the meeting room.

THE GAMBLING ACT 2005 HEARINGS REGULATIONS

The guidance notes for Hearings in respect of applications determined under the Gambling Act 2005 are attached for reference.

5.	REPRESENTATION IN RESPECT OF AN APPLICATION FOR A LICENCE UNDER THE GAMBLING ACT 2005	9 - 12
	To consider whether a representation made in respect of an application for a premise licence is a relevant representation under the 'Gambling Act 2005'.	
6.	APPLICATION FOR A NEW PREMISES LICENCE UNDER THE GAMBLING ACT 2005 '23/24 COMMERCIAL STREET, HEREFORD'	13 - 18
	To consider an application for a new premises licence in respect of 23/24 Commercial Street, Hereford.	

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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 Cabinet and of all Committees and Sub-Committees.
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- 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).
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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE
COUNCIL

The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England & Wales) Regulations 2007

HEARING PROCEDURE for the Licensing Committee under the GAMBLING ACT 2005

N.B. All references to the Committee will include the Regulatory Licensing Committee and any sub-committee of the Regulatory Licensing Committee as appropriate.

1. Pre-Hearing Date

- a. In accordance with the Gambling Act 2005 where relative representation(s) are made in relation to an application for a: -
 - premise licence
 - variation of a premise licence
 - transfer of a premise licence
 - re-instatement of a premise licence
 - provisional statement
 - review of a premise licencethe Authority must hold a hearing to consider them unless all the parties have notified the Authority that they consent to the determination of the application without a hearing.
- b. All hearings will be held as soon as is reasonably practicable after the expiry of any period for representations as prescribed.
- c. Notice of the hearing will be sent to the applicant or holder of the licence, appropriate responsible authorities and any interested parties who have made relevant representations (“parties to the hearing”).
- d. The notice will state the date, time and place at which the hearing is to be held and will be sent out so that in the ordinary course of events it is received no later than 10 working days before the first day on which the hearing is to be held.
- e. The Regulations state that as a minimum requirement the notice of hearing sent to the applicant, and if a review application, to the licensee, will also be accompanied by: -
 - this Procedure, setting out the process and rights of those attending, together with;
 - a copy of relevant representations or notices submitted to the licensing authority concerning the application or licence;
- f. The Licensing Authority has decided that, in the interests of natural justice, these documents will also accompany the notice of hearing when sent to all those who have made representations, without them first requesting copies.

2 Time Limits

- a. In certain circumstances, the licensing authority may extend time limits provided for in the Regulations and this Procedure, where it considers this to be necessary in the public interest.
- b. The Committee may at any time postpone a hearing to a specified date or arrange for a hearing to be held on a date specified by the committee.
- c. In any case where the hearing is to be held on more than one day, the relevant committee must arrange for the hearing to take place on consecutive working days.
- d. If a decision is not reached at the hearing then the Authority has 5 working days to reach a decision (Reg. 13 SI 173).

3. Attendance, Representations and Supporting Evidence

- a. A party to the hearing may attend the hearing and be assisted or represented by any person (whether or not that person is legally qualified) and is entitled to;
 - give further information and respond to any point that the authority has requested clarification on, including the calling of a witness in support of their application, representations or notice (as applicable);
 - question any other party or witness if permission to do so is granted by the committee; and
 - address the licensing authority.
- b. To enable this to happen and still provide for the administration of a fair hearing, **when a party to the hearing receives a notice of a hearing, he or she must give to the Licensing Authority a notice**, stating: -
 - i. whether he intends to attend or be represented at the hearing;
 - ii. whether he considers a hearing to be unnecessary;
 - iii. whether he wishes any other person (other than the person he intends to represent him or her at the hearing) to appear at the hearing. If so, the notice returned must contain a request for permission for that person (be it a witness of the party, a supporter or otherwise) to appear at the hearing. This is to be accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.

4. At the Meeting

- a. The decision making process will be carried out with regard to making decisions about premises licences and temporary use notices and should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant Codes of Practice under section 24 of the Act
 - in accordance with any relevant Guidance issued by the Commission under section 25 of the Act
 - in accordance with the Statement of Principles, and
 - reasonably consistent with the licensing objectives.
- b. At any hearing, the Committee (through the Chairman) may require any person who in their opinion is behaving in a disruptive manner to leave and may;
- (a) refuse to permit him to return, or
 - (b) permit him to return only on such conditions as the Sub-committee may specify,
 - (c) permit him to submit in writing, before the end of the hearing, any information which he would have been entitled to give orally had he not been required to leave; and
 - (d) take into account that information in reaching a determination of the application or review.
- c. All hearings must take place in public.
- d. However the Committee may direct that all or part of the hearing may be held in private if it is satisfied that it is necessary in all the circumstances of the case, having regard to: -
- Any unfairness to a party is likely to result from a hearing in public; and
 - The need to protect as far as possible, the commercial or other legitimate interests of a party.

5. **Procedure at Meeting**

- a. The procedure to be applied is as set out below. The Hearing will take the overall form of a discussion led by the Committee.
- b. The Committee may proceed in the absence of a party (or representative) if the party has: -
- informed the committee that he or she does not intend to attend or be represented at a hearing,
 - failed to inform the committee whether he or she intends to attend; or
 - left the hearing in circumstances enabling the committee to reasonably to conclude that he does not intend to participate further.
- c. If a party, who has indicated that he or she intends to attend, fails to attend or be represented at a hearing the Committee may: -
- where it considers it to be necessary in the public interest; adjourn the hearing to a specified date and notify the parties of the date, time and place to which the hearing has been adjourned; or hold the hearing in the party's absence.
- d. Where the authority holds the hearing in the absence of a party, the Committee will consider at the hearing the application, representations or notice made by that party as set out below.

- e. The Sub-committee will not take into account any written comments or documentary evidence from a party which is first produced at the hearing, without the consent of all parties in attendance at the hearing.
- f. Cross-examination shall not be permitted unless the Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require.
- g. The precise format and order of events on the day, however, is a matter for the Chairman.
- h. Appointment of Chairman by the Members from amongst their number where one has not been appointed in advance.
- i. The Chairman of the Committee will-
 - (i) introduce those present at the hearing and outline their role where appropriate;
 - (ii) ensure that the parties to the hearing understand the procedure to be followed and if unaccompanied, that the applicant could be represented; and
 - (iii) agree any maximum period of time in which the parties to the hearing may exercise their rights under this procedure and, if so, state that the maximum time shall be applied equally to each of the parties.
- j. The Chairman will then invite the applicant or licence holder, or their representative, to outline their application, give further information in response to any request for clarification on a point from the authority and address the relevant representations or notice – including the calling of any witnesses and/or the giving of evidence by the applicant.
- k. The Chairman will then invite the officers of the responsible authorities, or their representative(s), to outline their relevant representations, give further information in response to any request for clarification on a point from the authority and address the relevant part of the application or notice – including the calling of any witnesses and/or the giving of evidence by an officer.
- l. The Chairman will then invite the interested parties present, or their representative(s), to outline their relevant representations, give further information in response to any request for clarification on a point from the authority and address the relevant part of the application or notice – including the calling of any witnesses and/or the giving of evidence by the party him or herself.
- m. Where more than one representation in support or objection has been received, the parties concerned will be (and reminded that they have been) strongly encouraged to agree to present the case jointly unless their representations differ so as to require differing outcomes or quite differing reasons for a desired outcome.
- n. Any party may question any other party on any matter that is relevant to the application or a review or to any representations made on the

application or review, where the relevant Sub-committee considers that in all the circumstances it is appropriate to do so.

- o. Each party must also be allowed to provide further information on, or explanation of, any matter on which the relevant Sub-committee has indicated that it wants further clarification.
- p. After each speaker has given evidence, a question or questions may be put: -
 - to that person, with the consent of the Committee and through the Chairman, by:
 - another party to the hearing (in order of officers of the responsible authorities, interested parties, the applicant and or licensee, or their representative, as determined by the Chairman);
 - the officer or their representative to clear up any points raised in that questioning;
 - the applicant or their representative to clear up any points raised in that questioning; and
 - the legal advisor, on behalf of and with the consent of the Chairman only, to assist in their advice to the Committee on the meaning of the evidence submitted in relation to interpretation of statement of principles, guidance and legislation;
 - to any person by the Members of the Committee.
- q. The Chairman will invite the applicant or licensee to comment upon any ground of objection not yet addressed by the Committee (through non-attendance of the relevant person or their representative or otherwise) but contained within the papers of the licensing officer's report provided to the applicant and the Committee.
- r. The applicant should be prepared to answer any questions by Members of the Committee about those objections.
- s. Closing statements, of a maximum duration of in proportion to the maximum time previously set by the Chairman, may then be made by or on behalf of:
 - (i) each interested party who submitted a relevant representation (subject to the request for a co-ordinated approach)
 - (ii) each responsible authority who submitted a relevant representation
 - (iii) the applicant or licensee
- t. The Committee will then adjourn to make its determination of the application. All parties will then withdraw, directly or through retirement of the Committee. This will include all officers of the Council, including any legal officer appearing to represent an officer of the Council appearing on its behalf as a relevant authority. The only exceptions shall be any Committee Clerk acting solely in that role and the Committee's legal advisor. The legal advisor's role is to:
 - (i) advise the Committee on points of law, following which the substance of any such advice must be shared with all of the

- parties unless considered inappropriate (as determined by the public interest test); and
- (ii) assist the members of the Committee in formulating their reasoning and any conditions.

- v. Neither the administrator nor the legal advisor may advise the Committee on the merits or otherwise of granting, refusal or revocation of a licence (including modification of conditions).
- w. If further information is required from one party, the Committee will reconvene the hearing for all parties to be present whilst it is obtained.

6. Committee Decision

- a. The Committee will normally make its determination at the conclusion of the hearing.
- b. Where that is the case, all parties will be recalled and the determination will be announced to the applicant, together, if appropriate, with details of any conditions to be attached to the grant of the licence and the reasons for that or the reasons for refusal. Dependant upon the case in question, this will normally only be in summary or outline form only and the exact wording and reasoning will be issued as part of the formal notification.
- c. Where the Committee cannot make its determination at the conclusion of the hearing, it must (where permitted) make its determination within the period of five working days beginning with the day after the last day on which the hearing was held.
- d. Formal notification of the Committee's determination and related information will then be issued to all parties to the hearing, in writing and as soon as practicable.
- e. A Committee may disregard any irregularity resulting in a failure to comply with the 2007 Hearing Regulations where that irregularity comes to its attention prior to making a determination of the application or review, subject to taking such steps as it considers necessary to remedy any prejudice to any person caused by the said irregularity.
- f. A relevant Committee may correct clerical mistakes in any document recording a determination of the Sub-committee, or errors arising in such a document from an accidental slip or omission.
- g. The written form of the determination will be set out as a record of who attended the hearing for what purpose, together with a record of the Committee's findings of fact, the decision and the reasons for that decision.

7. Interpretation

- "the Act" means the Gambling Act 2005;
- "applicant" means a person who makes an application;

"application" means an application made under sections 159, 187, 188, 195, 197 or 204;

"relevant committee", "Sub-Committee" or "Committee" means a licensing committee to which functions are delegated by virtue of section 154(1), or a licensing sub-committee empowered to discharge such functions by arrangement under section 10(1) of the Licensing Act 2003;

"notice of hearing" means a notice given to a party in accordance with regulation 5;

"party" means a person to whom a notice of hearing is given in accordance with regulation 5(1);

"representations" means representations made in accordance with regulations under section 161 in relation to an application, or section 197(6) or 200(5) in relation to a review;

"review" means a review under section 201; and

"working day" means a day which is not a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971[3].

For the purposes of these Regulations, a reference to a review being determined is a reference to the licensing committee deciding what, if any, action it proposes to take under section 201 following a review.

A reference in these regulations to a numbered section or sub section is a reference to that section or sub section of the Act so numbered, unless the contrary is indicated.

For avoidance of doubt these notes reflect the intended procedures to be followed at hearings before the Regulatory Committee of the Herefordshire Council. In event of any conflict between these procedures and the relevant regulations namely The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England & Wales) Regulations 2007 then the regulations will prevail.

TO CONSIDER WHETHER A REPRESENTATION MADE IN RESPECT OF AN APPLICATION FOR A NEW PREMISES LICENCE IS A RELEVANT REPRESENTATION UNDER THE 'GAMBLING ACT 2005'

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Hereford City

1. Purpose

To consider whether a representation made in respect of an application for a premise licence is a relevant representation under the 'Gambling Act 2005'.

2. Background Information

On 5th October, 2007 an application was made by StanJames (Abingdon) Limited for a premise licence under the Gambling Act 2005 in respect of 23/24 Commercial Road, Hereford for a Betting Shop.

On 31st October a representation was received from 'William Hill' in respect of the application (copy shown within the background papers).

On 1st November following that representation the Licensing Authority checked the premise to ensure that the notice of the application was displayed on the premise. It was found that no notice was displayed.

Accordingly the applicant's solicitor was notified that the requirements of the act had not been met.

The applicant then requested that the 28 day period be re-started as off the 20th November.

Accordingly the 28 period concluded on 17th December.

Due to the Christmas period and to ensure that the Hearing Regulations were complied with the matter has been listed for hearing today.

3. Legislation

The following sections of the Gambling Act 2005 are relevant: -

Section 162(3) Requirements for a Hearing

A licensing authority may also determine an application for a premises licence without a hearing despite subsection (1)(a) if the authority think that the representations made under section 161—

- (a) are vexatious,
- (b) are frivolous, or
- (c) will certainly not influence the authority's determination of the application.

Section 158 Interested party

For the purposes of this Part a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person—

- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- (b) has business interests that might be affected by the authorised activities, or
- (c) represents persons who satisfy paragraph (a) or (b).

These should be read in conjunction with 'The Gambling Commission Guidance to Licensing Authorities'. The following sections are relevant: -

Persons with business interests that could be affected

8.15 It could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain. But that is unlikely to be enough to satisfy the test of being 'a person with business interests that might be affected by the premises' under consideration. For example, an operator in a particular sector (be it casino, bingo, betting etc) should not be able to lodge representations on every application put in by a rival operator anywhere in the country, simply because they are in competition within the same gambling sector. The licensing authority should be satisfied that the relevant business is likely to be affected. In this respect, licensing authorities should bear in mind that the 'demand test' in the 1963 and 1968 Acts has not been preserved in the 2005 Act. Factors that are likely to be relevant include:

- the size of the premises;
- the 'catchment' area of the premises (ie how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area that might be affected.

8.16 Licensing authorities should take care to distinguish between deciding whether a person is an interested party (ie whether their representations are admissible) and forming a view on the substance of their representations (ie whether their representations are relevant). **Representations made would not be relevant if they did not relate to the licensing objectives, but instead related to demand and competition.** But the licensing authority would need to accept the representations as admissible (if the grounds were made out) and then consider their relevance to the licensing objectives.

7.49 the following examples of possible representations would not be likely to be relevant:

- that there are already too many gambling premises in the locality (although it may be relevant if it points, as a result, to rising problems in crime, disorder, underage gambling or problem gambling);

4. Options: -

There are three options available to the Committee: -

- To decide that the representation made is not a relevant representation thereby dismissing it
- To decide that the representation is relevant but that it will certainly not influence the authorities determination of the application

- To decide that the representation is relevant and would influence the authorities determination of the application and to go ahead and hear the full application application.

5. Background Papers

- Representation from William Hill

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

APPLICATION FOR NEW PREMISES LICENCE '23/24 COMMERCIAL STREET, HEREFORD.' – GAMBLING ACT 2005

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Hereford City

1. Purpose

To consider an application for a new premises licence in respect of 23/24 Commercial Street, Hereford.

2. Background Information

Applicant	StanJames (Abingdon) Limited	
Solicitor	Horsey Lightly Fynn	
Type of application: New	Date received: 05/10/07	28 Days consultation 17/12/07

On 1st November the Licensing Authority checked the premise to ensure that the notice of the application was displayed. It was found that no notice was displayed.

Accordingly the applicant's solicitor was notified that the requirements of the act had not been met.

The applicant then requested that the 28-day period be re-started as off the 20th November.

Accordingly the 28 period concluded on 17th December.

3. New Licence Application

The application for a new licence has received representations from an interested party. It is therefore now brought before committee to determine the application.

4. Summary of Application

The application is for a premise licence for Betting (Other). This would permit the premises to be used as a Licensed Betting Shop.

5. Summary of Representation

Copies of the representation can be found within the background papers.

Responsible Authorities

All have no representation to make in relation to the application.

Interested Parties.

The Local Authority has received one (1) letter of representation in respect of the application, from a local business, William Hill.

6. Issues for Clarification

This Authority has requested clarification from the **applicant** as follows: -

Whether the application they are making before the Committee is an application for a Premise Licence or a Provisional Statement.

The Authority has requested the following clarification from the **representee** – Mike Johnson (William Hill): -

Full details of the evidence he intends to present to the committee to support his representation.

7. Attaching of conditions to a licence

Section 183 of the Act states that no premises shall be used for Gambling on Christmas Day.

The Gambling Act under Section 167 and 168 provides Mandatory and Default conditions to be attached to different categories of premise licences.

Section 169 allows the licensing authority to impose or exclude a condition or conditions onto or from a licence. It states that: -

- (1) Where a licensing authority issue a premises licence they may—
 - (a) attach a condition to the licence;
 - (b) exclude a condition that would otherwise be attached to the licence by virtue of section 168.
- (2) A condition attached to the licence under subsection (1)(a) may, in particular, address a matter addressed by a condition excluded under subsection (1)(b).
- (3) A condition attached to the licence under subsection (1)(a) may apply in relation to the premises generally or only in relation to a specified part of the premises.
- (4) A licensing authority may not attach a condition to a premises licence which prevents compliance with a condition of the operating licence which authorises the holder to carry out the activity in respect of which the premises licence is granted.

The mandatory conditions under Section 167 and the default conditions under Section 168 have been laid down by the Secretary of State in the 'Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007'.

In respect of betting premises licences (other than track premises licences) the following mandatory conditions apply: -

1. *A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.*
2. *(1) Access to the premises shall be from a street or from other premises with a betting premises licence.
(2) Without prejudice to sub-paragraph (1), there shall be no means of direct access between the premises and other premises used for the retail sale of merchandise or services.*
3. *Subject to anything permitted by virtue of the 2005 Act, or done in accordance with paragraphs 4, 5, 6 and 7 below, the premises shall not be used for any purpose other than for providing facilities for betting.*
4. *Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.*

5. *No apparatus for making information or other material available in the form of sounds or visual images may be used on the premises, except for apparatus used for the following purposes—*
 - (a) *communicating information about, or coverage of, sporting events, including—*
 - (i) *information relating to betting on such an event; and*
 - (ii) *any other matter or information, including an advertisement, which is incidental to such an event;*
 - (b) *communicating information relating to betting on any event (including the result of the event) in connection with which betting transactions may be or have been effected on the premises.*
6. *No publications, other than racing periodicals or specialist betting publications, may be sold or offered for sale on the premises.*
7. *No music, dancing or other entertainment shall be provided or permitted on the premises, save for entertainment provided in accordance with paragraph 5.*
8. (1) *No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.*
(2) *A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.*
9. *A notice setting out the terms on which customers are invited to bet on the premises shall be displayed in a prominent place on the premises to which customers have unrestricted access.*

In addition to this the following default condition will apply unless the Committee decide to exclude it under Section 169: -

No facilities for gambling shall be provided on the premises between the hours of 10pm on one day and 7am on the next day.

8. **Licensing Authorities Function**

Section 153 of the Gambling Act 2005 states: -

Principles to be applied

(1) In exercising their functions under this Part a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it—

- (a) in accordance with any relevant code of practice under section 24,
- (b) in accordance with any relevant guidance issued by the Commission under section 25,
- (c) reasonably consistent with the licensing objectives:
 - (i) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
 - (ii) ensuring that gambling is conducted in a fair and open way, and
 - (iii) protecting children and other vulnerable persons from being harmed or exploited by gambling.

and

(d) in accordance with the Herefordshire Council - Statement of Principles – Gambling Act 2005.

(2) In determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.

9. **Options: -**

There are a number of options available to committee

- Grant the licence (mandatory conditions would apply) attaching the default condition.
- Grant the licence (mandatory conditions would apply) excluding the default condition.
- Grant the licence (mandatory conditions would apply) attaching the default condition and attach further conditions.
- Grant the licence (mandatory conditions would apply) excluding the default condition and attach further conditions.
- To reject the application.

10. **Background Papers**

- a. Representation
- b. Application Form
- c. Site Plan

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

NOTES

Relevant Extracts from the Gambling Commission – Guidance to Licensing Authorities**Mandatory conditions attached to all premises licences**

9.25 The following mandatory conditions will apply to all premises licences:

- a summary of the terms and conditions of the premises licence must be displayed in a prominent place on the premises;
- the layout of the premises must be maintained in accordance with the plan that forms part of the premises licence;
- National Lottery products may not be sold on the premises; and
- there can be no direct access between one premises licensed under the Gambling Act 2005 and another premises licensed under the Gambling Act 2005 with the following exceptions:
 - between bingo premises and alcohol-licensed premises/clubs with a club gaming or club gaming machine permit/FECs and tracks;
 - between tracks and alcohol-licensed premises/clubs with a club gaming or club gaming machine permit/FECs/betting premises and bingo premises; and
 - between FECs and alcohol-licensed premises/bingo halls/clubs with club gaming or club gaming machine permit and tracks.

Conditions that may be imposed or excluded by licensing authorities

9.26 Section 169 of the Act gives licensing authorities:

- the ability to exclude from premises licences any default conditions that have been imposed under section 168; and
- the power to impose conditions on the premises licences that they issue.

9.27 Licensing authorities should bear in mind their duty to act in accordance with the principles set out in section 153. Since they should aim to permit the use of premises for gambling, they should not attach conditions that limit the use of premises for gambling except where that is necessary as a result of the requirement to act:

- in accordance with this guidance, the Commission codes of practice or the licensing policy statement; or
- in a way that is reasonably consistent with the licensing objectives.

Conversely, licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.

9.28 Conditions imposed by the licensing authority must be proportionate to the circumstances which they are seeking to address. In particular, licensing authorities should ensure that the premises licence conditions are:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

9.29 Licensing authorities should note that it is the Commission's view that the conditions necessary for the general good conduct of gambling premises will be those set as default and mandatory conditions by the Secretary of State. Therefore a pool of

additional conditions published by the Commission will not be necessary. Where there are specific risks or problems associated with a particular locality, or specific premises, or class of premises, a local authority will be able to attach individual conditions to address this. That will be a matter for them in the light of local circumstances.

- 9.30** The licensing authority should take decisions on individual conditions on a case-by-case basis, although this will be against the background of any general policy set out in this guidance or their own licensing policy statement.

Conditions that may not be attached by licensing authorities

9.31 Licensing authorities need to be aware that the Act sets out certain matters that may not be the subject of conditions. The relevant sections are:

- section 169(4), which prohibits the authority from imposing a condition on the premises licence which makes it impossible to comply with an operating licence condition;
- section 172(10), which provides that conditions may not relate to gaming machine categories, numbers, or method of operation;
- section 170, which provides that membership of a club or body cannot be required by attaching a condition to the premises licence (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- section 171, which prevents an authority imposing conditions in relation to stakes, fees, winnings or prizes.