

A G E N D A

Regulatory Sub Committee

Date: **Thursday, 11th December, 2008**

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

Herefordshire Council

AGENDA

for the Meeting of the Regulatory Sub Committee

To: Councillors JW Hope MBE, P Jones CBE and A Seldon

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.

5. APPLICATION FOR A NEW PREMISES LICENCE '37 COMMERCIAL ROAD, HEREFORD, HR1 2BS.'

To consider an application for a new premise licence in respect of 37 Commercial Road, Hereford, HR1 2BS.

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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.

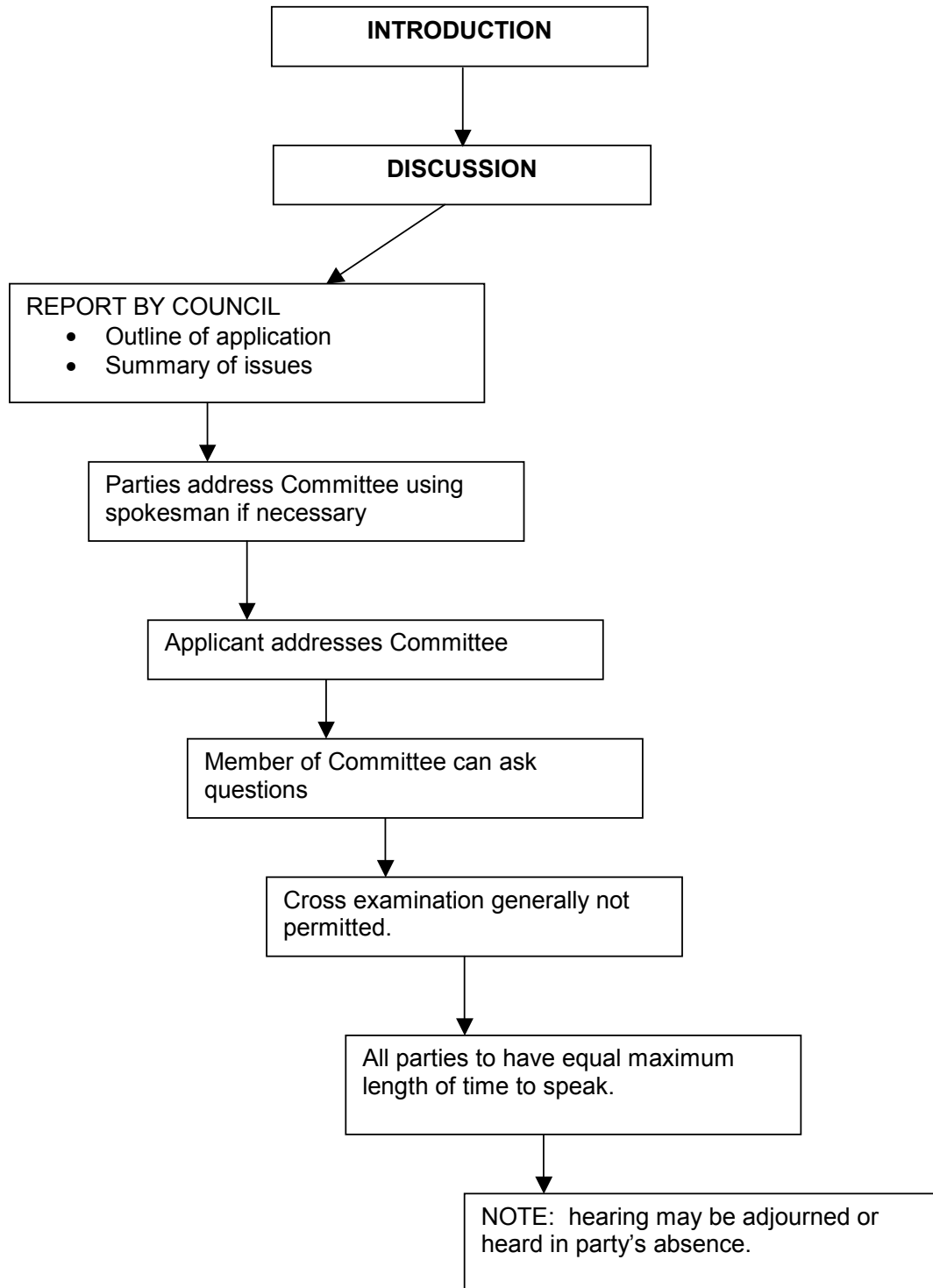
You should vacate the building in an orderly manner through the nearest available fire exit.

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 IN RESPECT OF '37 COMMERCIAL STREET, HEREFORD, HR1 2BS.' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Herford

1 Purpose

To consider an application for a new premise licence in respect of 37 Commercial Road, Hereford, HR1 2BS.

2 Background Information

Applicant	Erkan VARLI	
Solicitor	National Association of Turkish Restaurants, Supermarkets & Take Aways	
Type of application:	Date received:	28 Days consultation:
New	17 October 2008	13 November 2008

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

3 Summary of Application

The licensable activities applied for are: -
Provision of Late Night Refreshment (Indoors):
All days of the week 23:00 – 04:00

4. The premises to be open to the public: -
All days of the week 12:00 – 04:00

5. Non Standard hours

No application has been made for 'non-standard' hours in respect of the licensable activity.

6. Summary of Representations

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

West Mercia Police

An extensive representation has been received and they request that the Authority refuse the application as it is within the 'cumulative impact area'.

Environmental Health

The Environmental Health Officer has made an extensive representation and objects to the grant of the licence.

Fire Authority.

The fire authority has no comment to make in relation to the application.

Interested Parties.

One representation has been received from the Hereford City Partnership who represent local businesses; they raise a number of issues. They ask that the Licensing Authority refuse the licence.

7. Other Issues

The application refers to premises that are within this Authorities 'Cumulative Impact Area'.

In respect of this the Authority has a Special Policy (Appendix 1). This was last reviewed and consulted on in the Autumn of 2007.

In addition to this the matter is covered within the 'Guidance Notes' issued under Section 182 of the Licensing Act 2003 (Appendix 2).

8. Committees Responsibility

The committee is responsible for promoting the four licensing objectives.

In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- The steps that are necessary to promote the licensing objectives;
- The representations (including supporting information) presented by all parties;
- The Guidance issued to local authorities under Section 182 of the Licensing Act 2003
- The Herefordshire Council Licensing Policy

9. 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.

10. Background Papers

- a. Environmental Health & Trading Standards Comments
- b. Police Representations
- c. Copy of the Application Form
- d. Location plan

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

Appendix 1

SPECIAL POLICY

1. There is a concentration of licensed premises in the Commercial Road Area of Hereford City which are already causing a cumulative and detrimental impact on the following licensing objectives:
 - The prevention of crime and disorder
 - Public Safety
 - The prevention of public nuisance
2. The specific areas made the subject of this special policy are as follows:-
 - The full length of Commercial Road from its junction with Blueschool Street to its junction with Aylestone Hill.
 - 100 metres of Blueschool Street, West from its junction with Commercial Road.
 - 50 metres of Bath Street, East from its junction with Commercial Square.
 - 50 metres of Commercial Street, South from its junction with Commercial Square.
 - 50 metres of Union Street, South from its junction with Commercial Square.
3. The Council has a Special Policy of refusing new licences whenever it receives relevant representations about the cumulative impact that it concludes should lead to refusal.
4. These conclusions will be drawn from an evidential basis. Consideration of the adoption of a Special Policy include:
 - Identification of concern about crime and disorder and public nuisance;
 - Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area and the boundaries of the area from which the problems are arising; or that risk factors are such that the area is reaching a point where a cumulative impact is imminent.
5. The effect of this is to create a rebuttal presumption that applications for new premises or material variations will normally be refused if relevant representations to that effect are made unless it can be demonstrated that the operation of the premises will not add to the cumulative impact already being experienced. The Special policy does not relieve responsible authorities or interested parties of the need to make a relevant representation.
6. Special Policies will be reviewed regularly to assess if they are still needed or if they require expansion.

Appendix 2

THE CUMULATIVE IMPACT OF A CONCENTRATION OF LICENSED PREMISES

What is cumulative impact?

- 13.24 “Cumulative impact” is not mentioned specifically in the 2003 Act but means in this Guidance the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.
- 13.25 In some areas, where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport. Queuing in turn may be leading to conflict, disorder and anti-social behaviour. While more flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises, it is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater in these cases than the impact of customers of individual premises. These conditions are more likely to occur in town and city centres, but may also arise in other urban centres and the suburbs.

Effect of special policies

- 13.29 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.
- 13.30 However, a special policy must stress that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation, referring to information which had been before the licensing authority when it developed its statement of licensing policy, before a licensing authority may lawfully consider giving effect to its special policy. If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.
- 13.31 Once adopted, special policies should be reviewed regularly to assess whether they are needed any longer or need expanding.
- 13.32 The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant, or variation, of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

Guidance Notes

RELEVANT, VEXATIOUS AND FRIVOLOUS REPRESENTATIONS

- 9.8 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. For example, a representation from a local businessman which argued that his business would be commercially damaged by a new licensed premises would not be relevant. On the other hand, a representation that nuisance caused by the new premises would deter customers from entering the local area and the steps proposed by the applicant to control that nuisance were inadequate would be relevant. There is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations, and in fact this would not be possible for new premises. Further information for interested parties about the process for making representations is available in “Guidance for interested parties: Making representations” which can be found on the DCMS website.
- 9.9 The “cumulative impact” on the licensing objectives of a concentration of multiple licensed premises may also give rise to a relevant representation when an application for the grant or variation of a premises licence is being considered, but not in relation to an application for review which must relate to an individual premises.
- 9.10 It is for the licensing authority to determine whether any representation by an interested party is frivolous or vexatious 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. An interested party who is aggrieved by a rejection of their representations on these grounds may challenge the authority’s decision by way of judicial review.
- 9.11 Licensing authorities should not take decisions on whether representations are relevant on the basis of any political judgment. This may be difficult for ward councilors receiving complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the subcommittee before any decision is taken that necessitates a hearing. Any ward councilor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.
- 9.12 The Secretary of State recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it. If it then emerged, for example, that the representation should not be supported, the licensing authority could decide not to take any action in respect of the application.

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 a premises licence to be granted
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

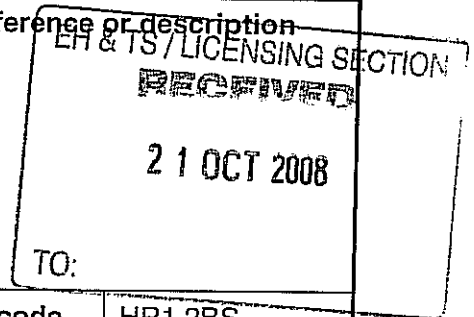
I/We MR ERKAN VARLI,

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description 37 COMMERCIAL STREET				
Post town		HEREFORD	Post code	HR1 2BS



Telephone number at premises (if any)	
Non-domestic rateable value of premises	£8300

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as
Please tick yes

- a) an individual or individuals * please complete section (A)
- b) a person other than an individual *
 - i. as a limited company please complete section (B)
 - ii. as a partnership please complete section (B)
 - iii. as an unincorporated association or please complete section (B)
 - iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)

- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname VARLI			First names ERKAN		
I am 18 years old or over				<input checked="" type="checkbox"/> Please tick yes	
Current postal address if different from premises address		103 STANBERROW ROAD			
Post Town	HEREFORD	Postcode	HR2 7NB		
Daytime contact telephone number					
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/> Please tick yes	

Current postal address if different from premises address			
Post Town		Postcode	
Daytime contact telephone number			
E-mail address (optional)			

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start?

Day		Month		Year			
1	3	1	1	2	0	0	8

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day		Month		Year			

Please give a general description of the premises (please read guidance note 1)
 The premises will be using as a Take - away. Please refer to the enclosed plan.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick yes

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of entertainment facilities:

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

Provision of late night refreshment (if ticking yes, fill in box L)

Supply of alcohol (if ticking yes, fill in box M)

In all cases complete boxes N, O and P

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue			State any seasonal variations for performing plays (please read guidance note 4)		
Wed					
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 6)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 4)		
Wed					
Thur			<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Fri					
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 6)			<u>Please give further details</u> (please read guidance note 3)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 4)
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 5)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue					
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 4)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 6)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue					
Wed			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 4)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 6)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue					
Wed			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 4) n/a		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 5) n/a		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 6)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 3)		
Tue					
Wed			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 4)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat					
Sun					

H

<p>Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)</p>			<p><u>Please give a description of the type of entertainment you will be providing</u></p>		
Day	Start	Finish	<p><u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)</p>	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<p><u>Please give further details here</u> (please read guidance note 3)</p>		
Wed					
Thur			<p><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 4)</p>		
Fri					
Sat			<p><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 5)</p>		
Sun					

I

Provision of facilities for making music Standard days and timings (please read guidance note 6)			<u>Please give a description of the facilities for making music you will be providing</u>		
			<u>Will the facilities for making music be indoors or outdoors or both – please tick</u> (please read guidance note 2)		Indoors <input type="checkbox"/>
Day	Start	Finish	<u>Both</u> <input type="checkbox"/>		
Mon			<u>Please give further details here</u> (please read guidance note 3)		
Tue					
Wed			<u>State any seasonal variations for the provision of facilities for making music</u> (please read guidance note 4)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for provision of facilities for making music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat					
Sun					

J

Provision of facilities for dancing Standard days and timings (please read guidance note 6)			Will the facilities for dancing be indoors or outdoors or both – please tick (see guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give a description of the facilities for dancing you will be providing</u>		
Mon			<u>Please give further details here</u> (please read guidance note 3)		
Tue					
Wed			<u>State any seasonal variations for providing dancing facilities</u> (please read guidance note 4)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the provision of facilities for dancing entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat					
Sun					

K

Provision of facilities for entertainment of a similar description to that falling within i or j Standard days and timings (please read guidance note 6)			<u>Please give a description of the type of entertainment facility you will be providing</u> 		
Day	Start	Finish	<u>Will the entertainment facility be indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 3)		
Wed					
Thur			<u>State any seasonal variations for the provision of facilities for entertainment of a similar description to that falling within i or j</u> (please read guidance note 4)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within i or j at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sun					

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3) N/A		
Mon	23:00	04:00			
			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 4) N/A		
Tue	23:00	04:00			
			<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 5)		
Wed	23:00	04:00			
Thur	23:00	04:00			
Fri	23:00	04:00			
Sat	23:00	04:00			
Sun	23:00	04:00			

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)	On the premises <input type="checkbox"/>
				Off the premises <input type="checkbox"/>
				Both <input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4) N/A	
Mon				
Tue				
Wed				
Thur				
Fri				
Sat				
Sun			Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5) N/A	

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name	
Address	
Postcode	
Personal Licence number (if known)	
Issuing licensing authority (if known)	

N

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)
 N/A

O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4) N/A
Day	Start	Finish	<p>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5) N/A</p>
Mon	12:00	04:00	
Tue	12:00	04:00	
Wed	12:00	04:00	
Thur	12:00	04:00	
Fri	12:00	04:00	
Sat	12:00	04:00	
Sun	12:00	04:00	

P Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

The standard practices listed below will be maintained at all times. All reasonable steps will be taken to ensure that the premises will have a positive impact upon the local environment and its residents at all times.

b) The prevention of crime and disorder

The 'red care' alarm system shall be operated and maintained at the premises.

An alarm system that meets a minimum standard of BSEN50131 grade 1 must be installed at the premises. A panic button facility must be provided at the counter.

At least 2 members of staff will be on the shop floor between 22.00 to closing time.

CCTV shall be installed, operated and maintained in agreement with the Police. The system will enable a frontal head and shoulders image of every person entering the premises. The system shall record in real time and operate whilst the premises are open for licensable activities. The recordings shall be kept available for a minimum of 31 days. Recordings shall be made available to an Authorised Officer or a Police Officer (subject to the Data Protection Act 1998) within 24 hours of any request.

Premises shall be well lit both inside and out to deter offenders and support the CCTV (subject to any planning constraints)

c) Public safety

Appropriate fire safety procedures are in place along with appliances including fire extinguishers (Foam, H2O and CO2), fire blankets, internally illuminated fire exit signs, a smoke detector and emergency lighting. All appliances are checked annually and comply with relevant British Standards.

All fire escapes/escape routes will be clearly marked and kept free from obstructions at all times.

d) The prevention of public nuisance

All customers are asked to leave quietly. Clear and legible notices will be displayed to remind customers to leave quietly.

Ventilation and extract systems are designed and maintained so as to prevent noxious smells causing a nuisance to nearby properties.

Trade waste agreement to be maintained at all times.

e) The protection of children from harm

To protect the children from harm we have following steps taken
 1- the premises are effectively and responsibly managed;
 2- provision of a sufficient number of people employed or engaged
 3- appropriate instruction, training and supervision of those employed or engaged

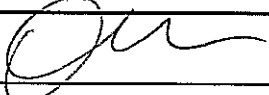
Please tick yes

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	14th October 2008
Capacity	Authorised Agent

For joint applications signature of 2nd applicant or 2nd applicant’s solicitor or other authorised agent. (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)			
NARTS (National Association of Turkish Restaurants, Supermarkets and Take-aways) 90 Green Lanes Newington Green			
Post town	London	Post code	N16 9EJ
Telephone number (if any)	020 8090 0376		
If you would prefer us to correspond with you by e-mail your e-mail address (optional)			
info@act2003.com			

Notes for Guidance

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

Hereford Police Station
Bath Street
HEREFORD
HR1 2HT
Tel 08457 444888 Fax: 01432 347148

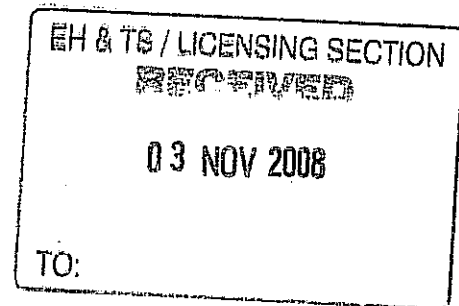


WEST MERCIA
CONSTABULARY
TOGETHER - WORKING FOR SAFETY AND JUSTICE

30th October 2008

Our Ref:
Your Ref:

Herefordshire Council Licensing Department
PO Box 233
Bath Street
HEREFORD



Dear Sir or Madam:

REF: 37 COMMERCIAL STREET HEREFORD HR1 2BS
APPLICATION FOR GRANT OF PREMISE LICENCE,
LICENSING ACT 2003

I refer to the above mentioned application made pursuant to the Licensing Act 2003, received by the West Mercia Constabulary on the 17th October 2008.

On behalf of the West Mercia Constabulary I have the following relevant representations to make in accordance with the Act.

In order in order to promote the licensing objectives and in particular, with a view to preventing crime and disorder, preventing public nuisance and promoting public safety I would seek the licensing authority to refuse to grant this premise licence.

37 Commercial Street is in fact the old "Rowberry Butchers Shop" located on the junction of Bath Street and Union Street., and falls with in the Cumulative Impact area, as adopted by Herefordshire Council Licensing Committee.

This special policy was adopted by Herefordshire Council Licensing Committee, when they published their Licensing policy for 2005 / 08, and was renewed when they published their licensing policy for 2008 / 11.

The effect of adopting this special policy is to create a rebuttable presumption that applications for new premise licences or variations that are likely to add to the existing cumulative impact will normally be refused.

The guidance issued at section 182 of the Licensing Act specifically uses the examples of the cumulative impact of concentrations of young drinkers can result in queues at fast food outlets which can in turn lead to conflict, disorder and anti social behaviour. This was precisely the situation in this area of Hereford prior to the commencement of the Licensing Act 2003, and instrumental in the introduction of the policy.

The guidance also makes it clear that consideration should be given to the different styles and characteristics of any proposed premises and use the example of a small restaurant or theatre.

It is the view of the West Mercia Constabulary, that this proposed new "fast food" kebab shop does not offer any different styles or characteristics that would not affect the cumulative impact of the already large number of similar premises.

Within the cumulative impact area there already exist 7 premises licensed to provide Late Night Refreshment, by way of a take away, and one premise that has circumvented the requirement to be licensed but never the less provides food late at night. There are also 7 public houses and 2 large night clubs, along with 4 restaurants, and a cinema.

The West Mercia Constabulary submitted a request to Herefordshire Council Licensing Authority to introduce the Cumulative impact policy at the commencement of the new licensing regime in 2005, because this area had been identified as the number one hot spot in the county for alcohol related crime and disorder.

In the period January 2005 to August 2005, in the County of Herefordshire there were 1343 alcohol related incidents of Crime and Disorder report to the police.

Of these incidents 980 took place in Hereford, and of those 268 took place in the cumulative impact area.

Fast food outlets were identified as one of the prime locations for this disorder, with one specific premise having 47 incidents in 12 months, with two incidents requiring the premise to be closed.

The area is still the number one hot spot for incidents of alcohol related crime and disorder, and during the period 21/09/08 to 19/10/08, in Hereford city there were 69 reported incidents of alcohol related crime and disorder with 28 taking place inside the cumulative impact area. The peak period for these incidents were 0200 to 0330 on a Friday and Saturday night, with the one premise inside the cumulative impact area that does not require a premise licence being identified as a bottleneck.

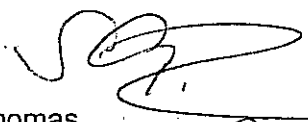
It is the view of the West Mercia Constabulary, that to allow this premise to be granted a premise licence to operate until 0400 hours 7 days a week, will add to the cumulative impact on the licensing objectives of the prevention of crime and disorder and public nuisance, of the existing premises.

It is also the view of the West Mercia Constabulary that to allow a late night fast food outlet, specifically to cater for those seeking food after the public houses and nightclubs have closed, on this busy road junction, would compromise the licensing objective of public safety.

The very nature of the customer base they are seeking to attract is such that they will have consumed alcohol, often in large quantities. The customers they seek to attract will then stand outside the premise and congregate on the road to consume what they have purchased.

That scenario on this busy road junction will compromise the safety of those customers this application is seeking to attract.

S G Thomas
PC 697
Licensing Officer


PC697

MEMORANDUM

To : FRED SPRIGGS, LICENSING OFFICER , LICENSING SECTION

From : VICTORIA WOODLAND, ENVIRONMENTAL HEALTH OFFICER,
ENVIRONMENTAL HEALTH AND TRADING STANDARDS

Tel : 01432 261638 My Ref :

Date : 10th November 2008 Your Ref : 13.11.08

**LICENSING ACT 2003
APPLICATION FOR A NEW PREMISES LICENCE
HEREFORD KEBAB, 37 COMMERCIAL STREET, HEREFORD**

Having assessed the above application, I must raise an objection to the application for two reasons:

Firstly, Commercial Street/Union Street has been declared part of a 'Cumulative Impact Area' in accordance with the council's Special Licensing Policy 2008-2011, where the cumulative impact of the number, type and density of licensed premises already in this area has created a 'hotspot' for disorder and nuisance. The premises proposed would form a 'new' additional licensed premises, as it was previously home to 'Rowberry Butchers Shop', sited within the council's 'Special Policy Area'. The council's policy states that,

'Licenses may be refused if the cumulative impact of new licenses is leading to an area becoming saturated with premises of a particular type, making it a focal point for large groups of people to gather thus creating exceptional problems of disorder and/or nuisance which out weighs the impact from the individual premises themselves.'

Given that there are 7 existing licensed premises within the special policy area providing late night refreshment to takeaway, I consider another premises of this nature would saturate the area and only act to exacerbate existing problems of disorder and/or nuisance.

I should like to draw your attention to the guidance issued under s182 of the 2003 Act, in respect of cumulative impact where a concentration of licensed premises exist:

'... concentrations of young drinkers can result in queues at fast food outlets and for public transport. Queuing in turn may be leading to conflict, disorder and anti-social behaviour. While the general lengthening of licensing hours can be expected to reduce this impact by allowing a more gradual dispersal of customers from premises, it is possible that the impact on surrounding areas of the behaviour of customers of all premises taken together will still be greater in these cases than the impact of customers of individual premises.'

Secondly, in respect of the terminal hour applied for, being 04.00 hours, this would not only encourage people to remain in the street for longer periods giving rise to disorder/nuisance issues, but will also adversely affect the routine street cleaning provided in the vicinity.

The street cleaning operates currently between 02.30am and 06.30am. A clear **Four Hour** window for street cleaning is required in order for all the scheduled work to be completed to the required standard with the resources currently available. Deliveries for shops and commercial premises start at 06.00am and after this time there is increased traffic, which makes it very difficult for crews to effectively clean the streets before members of the public start their normal day and children make their way to school.

For the reasons outlined above I am unable to lend support to this application in its entirety and recommend that the premises licence be refused.



**VICTORIA WOODLAND
ENVIRONMENTAL HEALTH OFFICER
ENVIRONMENTAL HEALTH AND TRADING STANDARDS**

Hereford City Partnership Ltd

Licensing Section
Herefordshire Council
Bath Street
Hereford

EH & TS / LICENSING SECTION
RECEIVED

28 OCT 2008

TO:

24 October 2008

Dear Fred,

APPLICATION FOR THE GRANT OF PREMISES LICENCE HEREFORD KEBAB, 37 COMMERCIAL ROAD, HEREFORD

The Hereford City Partnership would like to raise its concern about the above application. We believe that it contravenes the licensing objectives for the following reasons:

Prevention of Crime & Disorder

Before the introduction of the 2003 Licensing Act the majority of late night anti-social behaviour within the Hereford Cumulative Impact Zone area was caused by people trying to get something to eat between 03.00 and 04.00 in the morning. The decision to limit the opening of the late night take-aways to 01.30 fundamentally helped to reduce the majority of this late night anti-social behaviour.

The existence of the Cumulative Impact Zone gives the authority the ability to challenge any new applications for premise licences and the City Partnership would ask the authority to exercise this right and refuse this licence. If this application to trade until 04.00 every morning is approved it will encourage others to seek the same and without doubt will put the city in the same position as it was prior November 2005.

Prevention of Public Nuisance

The noise, nuisance and environmental impact caused by a take-away's customers can become a serious problem. There is already an oversupply of take away's in this area and the rubbish that is usually discarded in the street can cause a serious public nuisance and health hazard.

Town Hall
St Owen Street
Hereford
HR1 2PJ
Tel: 01432 383610
Mobile: 07966932894
Email: cpalmer@herefordshire.gov.uk

MEMORANDUM

To : LICENSING OFFICER
From : *Hereford City Partnership Ltd*
Tel : 01432 383610 My Ref : *CP*
Date : *24/10/08* Your Ref :

LICENSING ACT 2003 APPLICATION FOR NEW OR VARIATION OF PREMISES LICENCE

Having assessed the above application, I would like to make the following representation:

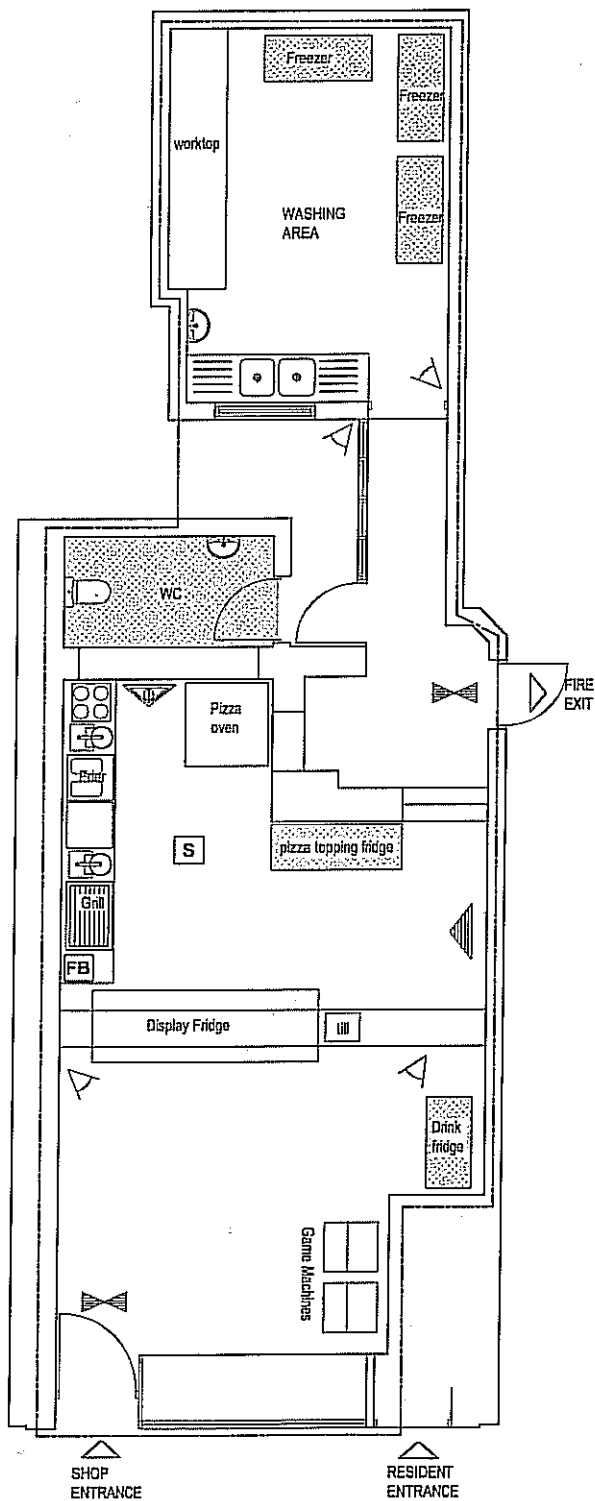
Representation	Industry Guidance
PREVENTION OF CRIME & DISORDER	✓
PUBLIC SAFETY	
PREVENTION OF PUBLIC NUISANCE	✓
PROTECTION OF CHILDREN FROM HARM	

REFERENCES

Please Reference the industry guidance from which your representation has been sourced.

OFFICER
POSITION
AUTHORITY

M Palmer
Hereford City Manager



GROUND FLOOR PLAN

LEGEND

- WC
- FRIDGES
- AMBIT OF LICENSED PREMISES
- SAFETY LIGHTS
- FIRE BLANKET
- SMOKE DETECTOR
- CCTV
- CARBON DIOXIDE FIRE EXTINGUISHER
- WATER FIRE EXTINGUISHER

HEREFORD
KEBAB

37 COMMERCIAL
SQUARE
HEREFORD

**PROPOSED
GROUND FLOOR**

SCALE : 1/100@A4

DATE : 15/10/08

REF. NO : EG151008



ACT 2003
90 Green Lanes LONDON
N16 9EJ

Tel : 020 7241 3636(4line)

www.act2003.com

