

AGENDA

Regulatory Sub Committee

Date: **Monday 21 June 2010**

Time: **2.00 pm**

Place: **Committee Room 1, Shirehall, St. Peter's Square,
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

Email: rclarke@herefordshire.gov.uk

If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail rclarke@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Regulatory Sub Committee

Membership **Councillor SPA Daniels**
 Councillor JW Hope MBE
 Councillor A Seldon

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. A Councillor who has declared a prejudicial interest at a meeting may nevertheless be able to address that meeting, but only in circumstances where an ordinary member of the public would be also allowed to speak. In such circumstances, the Councillor concerned will have the same opportunity to address the meeting and on the same terms. However, a Councillor exercising their ability to speak in these circumstances must leave the meeting immediately after they have spoken.

AGENDA

	Pages
1. ELECTION OF CHAIRMAN	
To elect a Chairman for the hearing.	
2. APOLOGIES FOR ABSENCE	
To receive apologies for absence.	
3. NAMED SUBSTITUTES (IF ANY)	
To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
4. DECLARATIONS OF INTEREST	
To receive any declarations of interest by Members in respect of items on the Agenda.	
5. NOTIFICATION OF TEMPORARY EVENT NOTICE 'MR CHIPS, 17 COMMERCIAL ROAD, HEREFORD, HR1 2BB.'	1 - 4
To consider the notification of a Temporary Event Notice in respect of Mr CHIPS, 17 Commercial Road, Hereford, HR1 2BB and the issue of an objection notice given by the Chief Officer of Police for West Mercia.	
Background Papers - Mr Chips - TEN Notification	5 - 10
Background Papers - Mr Chips - Police Representation	11 - 12

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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.
- 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).
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HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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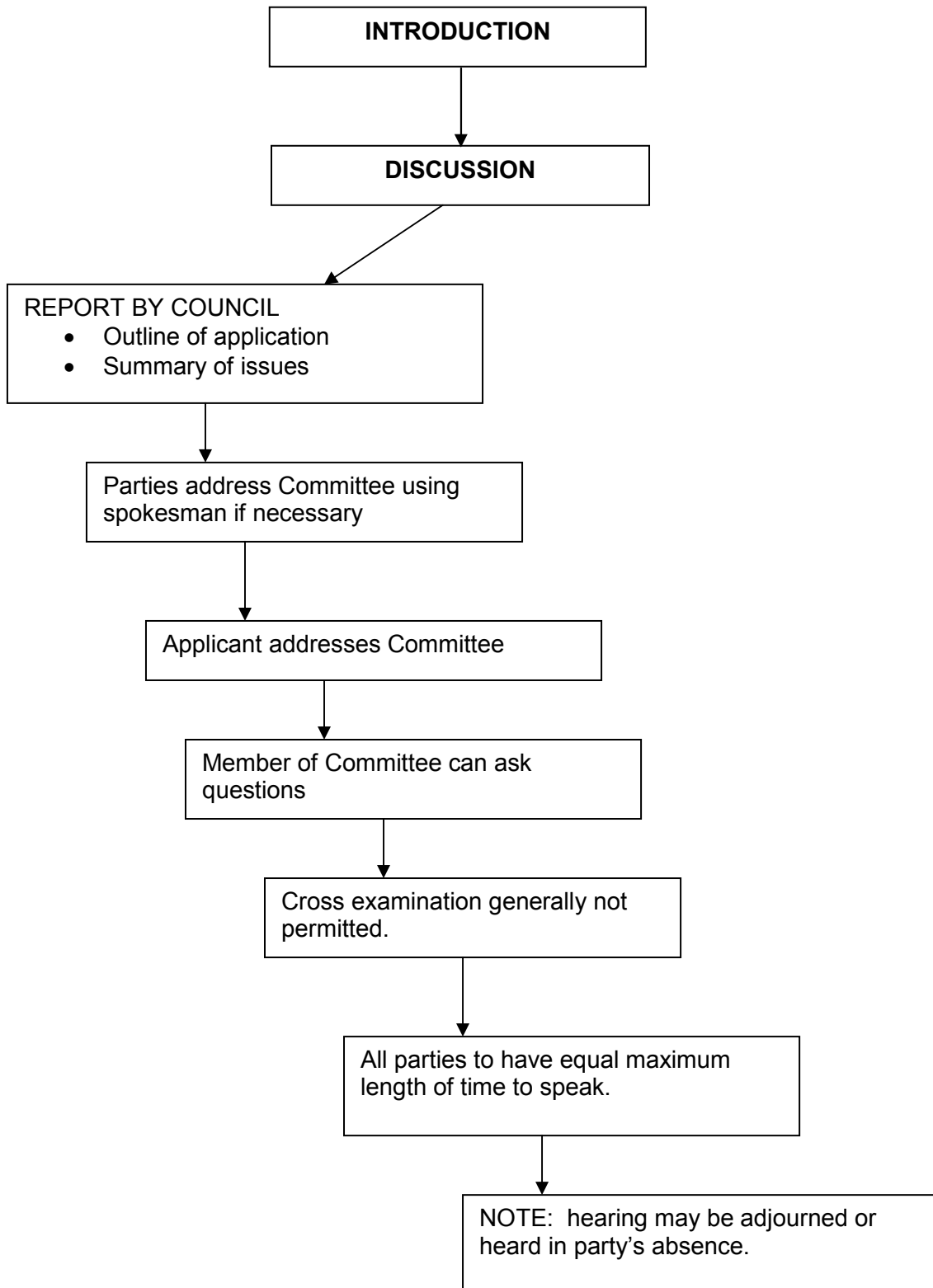
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY SUB-COMMITTEE
DATE:	21 JUNE 2010
TITLE OF REPORT:	NOTIFICATION OF TEMPORARY EVENT NOTICE IN RESPECT OF MR CHIPS, 17 COMMERCIAL ROAD, HEREFORD, HR1 2BB AND THE ISSUE OF AN OBJECTION NOTICE GIVEN BY THE CHIEF OFFICER OF POLICE FOR WEST MERCIA.' - LICENSING ACT 2003
PORTFOLIO AREA:	ENVIRONMENT & TRADING STANDARDS

CLASSIFICATION: Open

Wards Affected

Hereford City

Purpose

To consider the notification of a Temporary Event Notice in respect of Mr CHIPS, 17 Commercial Road, Hereford, HR1 2BB and the issue of an objection notice given by the Chief Officer of Police for West Mercia.

Key Decision

This is not a Key Decision.

Recommendation

THAT Sub-Committee determine the application with a view to promoting the licensing objective of the prevention of crime and disorder in the overall interests of the local community. They should give appropriate weight to:

- The steps that are necessary to promote that licensing objective,
- The objection notice issued by the West Mercia Police,
- The Guidance issued to local authorities under Section 182 of the Licensing Act 2003, and
- The Herefordshire Council Licensing Policy.

Key Points Summary

- Objection Notice issued by West Mercia Police

Options

There are two options available to the committee:

- a) Issue a 'counter notice' if it considers necessary for the promotion of the crime prevention objective or
- b) Refuse to issue a counter notice, thereby authorising the Licensable Activity and hours as notified in the Temporary Events Notice

Reasons for Recommendations

Ensures compliance with the Licensing Act 2003.

Introduction and Background

Background Information

Applicant	Keith Ricketts 12 Bardolph Close, Southdale, Hereford, HR2 7QA	
Solicitor	N/A	
Type of application: TENS Notification	Date received: 11/06/10	48 hour period concluded 13/06/10

TEN Notification

The notification of a Temporary Event Notice has received an objection from the relevant Chief Officer of Police. It therefore is now brought before committee to determine the notification.

Summary of Notification

The licensable activity notified is: -

The provision of Late Night Refreshment on:-

27th June 2010 between 01:30 – 04:00

Details of Event

The application states 'Late Licence'. No other details are provided.

Summary of Representations

The relevant Chief Officer of Police has made a written objection on 11th June 2010 on the grounds that the temporary event would undermine the Crime Prevention Objective as: -

- The premises prior to the introduction of the act operated without restriction, and was a location where alcohol related crime and disorder occurred in Hereford City.
- In the last 12 months there have been 4 incidents in or near to the premises where disorder has occurred, which is alcohol related. These incidents can relate to the fact that the premises was operating. One of these incidents occurred when the premises was subject to a temporary event notice.

- Since the commencement of the Licensing Act 2003, a number of TEN have been granted for this premise, without police objection, but they have only been on “Special Occasions “such as New Years Eve, when additional policing resources have been deployed. There is no information that indicates that this date for this application is a ‘special occasion’.

A copy of the objection can be found within the background papers.

Key Considerations

To consider what action should be taken, if any, to promote the licensing objectives of the prevention of crime and disorder.

Community Impact

The granting or refusing of the Notification is likely to have little impact on the Community.

Legal Implications

The Committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that: -

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.

By virtue of Schedule 5 Section 16(6) there is no right of appeal to the Magistrates Court as any appeal has to be bought no later than 5 working days before the day on which the event period specified in the temporary event notice begins.

Consultees

The Police are the only responsible authority able to issue an objection notice under the act.

Appendices

Copy of TEN notification
Police Objection Notice

Background Papers

Background papers are available for inspection in the Committee Room 1, Shirehall, Hereford 30 minutes before the start of the hearing.

EH & TS / LICENSING SECTION
RECEIVED
 11 JUN 2010
 TO:

09 JUN 2010
 27-28/6/2010
 15

Temporary Event Notice

Information on the Licensing Act 2003 is available on the website of the Department for Culture, Media and Sport (http://www.culture.gov.uk/alcohol_and_entertainment/default.htm) or from your local licensing authority.

Before completing this notice please read the guidance notes at the end of the notice. If you are completing this notice by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets if necessary.

You should keep a copy of the completed notice for your records. You must send two copies of this notice to the licensing authority and an additional copy must be sent to the chief officer of police for the area in which the premises are situated. The licensing authority will endorse one of the two copies and return it to you as an acknowledgement of receipt.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)			
1. Your name			
Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname	RICKETTS		
Forenames	KEITH		
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)			
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname			
Forenames			
3. Your date of birth	Day 07	Month 04	Year 62
4. Your place of birth	PEMBROSE		
5. National Insurance Number	WM 49 54 93 B		
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)			
12 BARROLDH CLOSE SOUTHDALE			
Post town	HEREFORD	Post code	HR2 7QA
7. Other contact details			
Telephone numbers			
Daytime			
Evening (optional)			
Mobile (optional)	07977095151		
Fax number (optional)			
E-Mail Address (optional)			
8. Alternative address for correspondence (If you complete the details below, we			

will use this address to correspond with you)	
MR CHIPS 17 COMMERCIAL RD	
Post town HERFORD	Post code HR1 2BB
9. Alternative contact details (if applicable)	
Telephone numbers: Daytime	01432 378 229
Evening (optional)	
Mobile (optional)	07977095151
Fax number (optional)	
E-Mail Address (optional)	

2. The premises
Please give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references) (Please read note 2)
MR CHIPS 17 COMMERCIAL RD HERFORD HR1 2BB
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)
Please describe the nature of the premises below. (Please read note 4)
FISH & CHIP SHOP
Please describe the nature of the event below. (Please read note 5)
LATE LICENCE

3. The licensable activities	
Please state the licensable activities that you intend to carry on at the premises (please mark an "X" next to the licensable activities you intend to carry on). (Please read note 6)	
The sale by retail of alcohol	<input type="checkbox"/>
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	<input type="checkbox"/>
The provision of regulated entertainment	<input type="checkbox"/>
The provision of late night refreshment	<input checked="" type="checkbox"/>
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 7)	
27 TH JUNE 2010	
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 8)	
01.30AM TO 04.00AM 27 TH JUNE 2010	
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 9)	15
If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please mark an "X" next to the appropriate box). (Please read note 10)	On the premises only <input type="checkbox"/>
	Off the premises only <input type="checkbox"/>
	Both <input type="checkbox"/>

4. Personal licence holders (Please read note 11)		
Do you currently hold a valid personal licence? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If "Yes" please provide the details of your personal licence below.		
Issuing licensing authority		

Licence number	
Date of issue	
Date of expiry	
Any further relevant details	

5. Previous temporary event notices you have given (Please read note 12)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the number of temporary event notices you have given for events in that same calendar year		
Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

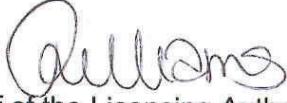
6. Associates and business colleagues (Please read note 13)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices your associate(s) have given for events in the same calendar year		
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices your business colleague(s) have given for events in the same calendar year.		
Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

7. Checklist (Please read note 14)	
I shall (Please mark the appropriate boxes with an "X")	
Send two copies of this notice to the licensing authority for the area in which the premises are located	<input checked="" type="checkbox"/>
Send a copy of this notice to the chief officer of police for the area in which the premises are located	<input checked="" type="checkbox"/>
If the premises are situated in one or more licensing authority areas, send two copies of this notice to each additional licensing authority	<input type="checkbox"/>
If the premises are situated in one or more police areas, send a copy of this notice to each additional chief officer of police	<input type="checkbox"/>
Make or enclose payment of the fee for the application	<input checked="" type="checkbox"/>
Sign the declaration in Section 9 below	<input checked="" type="checkbox"/>

8. Condition (Please read note 15)
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read note 16)	
The information contained in this form is correct to the best of my knowledge and belief.	
I understand that it is an offence: (i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on conviction for such an offence to a fine up to level 5 on the standard scale; and (ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on conviction for any such offence to a fine not exceeding £20,000, or to imprisonment for a term not exceeding six months, or to both.	
Signature	<i>K. Ricketts</i>
Date	09.06.2010
Name of Person signing	MR KEITH RICKETTS.

For completion by the Licensing Authority

10. Acknowledgement (Please read note 17)	
I acknowledge receipt of this temporary event notice.	
Signature	 On behalf of the Licensing Authority
Date	11/6/10
Name of Officer signing	R. Williams

Licensing Department
Hereford Police Station
Bath Street
Hereford. HR1 2HT



0300 333 3333
Direct Dial: 01432 364552
E-mail james.mooney@westmercia.police.pnn.uk

11 June 2010

Our Ref:
Your Ref:

Keith RICKETTS
12 Bardolph Close
Southdale
Hereford. HR2 7QA

Dear Sir

Ref Temporary Event Notice application – Licensing Act 2003
Mr Chips, Commercial Road, Hereford.

I refer to the above application made in pursuant of Sec 100 Licensing Act 2003, received by the West Mercia Constabulary on the 11 June 2010

On behalf of the Chief Constable please take this as an Objection Notice for the purposes of section 104 of the Act.

Date of temporary event applied for 27 June 2010.

This objection notice is served because it is the view of the West Mercia Constabulary that to allow such a temporary event would undermine the crime prevention objective.

- The premises prior to the introduction of the act operated without restriction, and was a location where alcohol related crime and disorder occurred in Hereford City.
- In the last 12 months there have been 4 incidents in or near to the premises where disorder has occurred, which is alcohol related. These incidents can relate to the fact that the premises was operating. One of these incidents occurred when the premises was subject to a temporary event notice.
- Since the commencement of the Licensing Act 2003, a number of TEN have been granted for this premise, without police objection, but they have only been on "Special

NOT PROTECTIVELY MARKED



NOT PROTECTIVELY MARKED

Occasions "such as New Years Eve, when additional policing resources have been deployed. There is no information that indicates that this date for this application is a 'special occasion'.

Signed

Dated.....

Cc Herefordshire Council Licensing Department