

AGENDA

Regulatory Sub Committee

Date: **Tuesday 26 April 2011**

Time: **11.00 am**

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

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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 JW Hope MBE**
 Councillor Brig P Jones CBE
 Councillor JD Woodward

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

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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.	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH ZC123 (PART) IN THE PARISH OF LEOMINSTER To consider an application for the diversion of part of footpath ZC123, Leominster Ward Affected: Leominster South	1 - 6
6.	HIGHWAYS ACT 1980,SECTION 119, PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH GR26 (PART) IN THE PARISH OF GOODRICH To consider an application to divert part of footpath GR26 at Goodrich. Ward affected: Kerne Bridge	7 - 12
7.	APPLICATION FOR VARIATION OF A PREMISES LICENCE 'MALTHURST NORTHSIDE SERVICE STATION, HEREFORD ROAD, HOPE UNDER DINMORE HR6 0PJ.' - LICENSING ACT 2003 To consider an application for the variation of a premises licence in respect of the 'Malthurst Northside Service Station, Hereford Road, Hope under Dinmore, Ward affected: Hampton Court	13 - 18
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<p>8. TO CONSIDER AN APPLICATION FOR THE GRANT OF A LICENSED PREMISES GAMING MACHINE PERMIT FOR 4 MACHINES, IN RESPECT OF 'THE DUKE'S HEAD, CORN SQUARE, LEOMINSTER</p> <p>To consider an application for the grant of a Licensed Premises Gaming Machine Permit for 4 machines, in respect of 'The Duke's Head, Corn Square, Leominster.</p> <p>Ward affected: Leominster South</p>	<p>51 - 54</p>
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<p>9. PROCEDURAL ARRANGEMENTS</p> <p>To consider the procedural arrangements for the following matter.</p>	<p>65 - 66</p>
<p>EXCLUSION OF THE PUBLIC AND PRESS</p> <p>In the opinion of the Proper Officer, the following item will not be, or is likely not to be, open to the public and press at the time it is considered.</p>	
<p>RECOMMENDATION:</p>	<p>that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>1 Information relating to any individual.</p>	
<p>2 Information which is likely to reveal the identity of an individual.</p>	
<p>10. TO CONSIDER A SUSPENSION NOTICE SERVED ON A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER</p> <p>To review a suspension notice served on a driver.</p>	<p>67 - 70</p>
<p>Background Papers - Driver Suspension</p>	<p>71 - 72</p>
<p>Background Papers - Taxi Driver Letter</p>	<p>73 - 74</p>

The Public's Rights to Information and Attendance at Meetings

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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).
- 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.

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HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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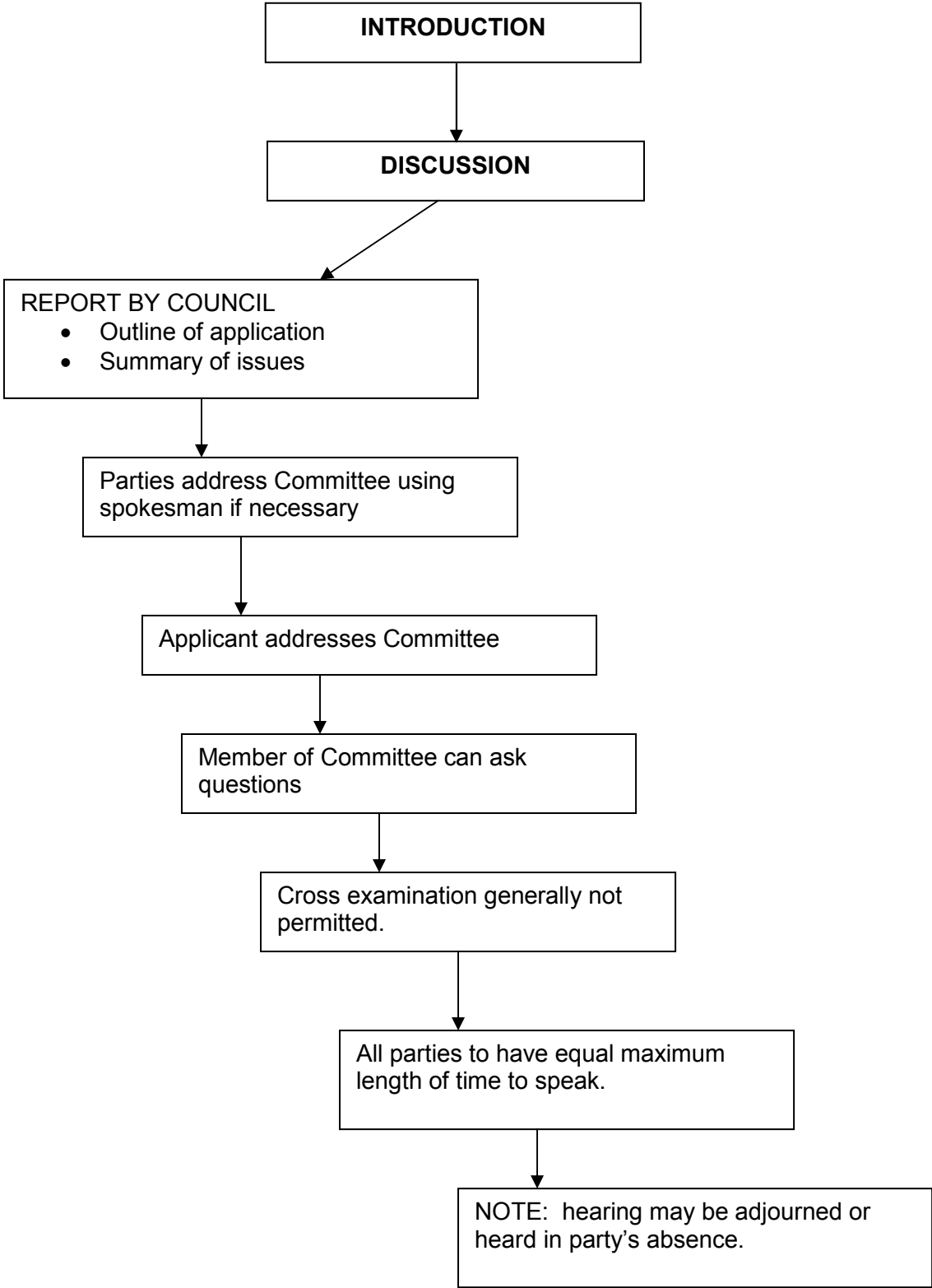
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY SUB COMMITTEE
DATE:	26 APRIL 2011
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH ZC123 (PART) IN THE PARISH OF LEOMINSTER
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Wards Affected

Leominster South.

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath ZC123 in the parish of Leominster.

Key Decision

This is not a Key Decision.

Recommendation

That a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D390/226-123

Key Points Summary

- The proposed route of the path was marked out some years ago and the existing line of the right of way has not been used for some years.
- An application was originally made to divert footpath ZC123 under the Town and Country Planning Act 1990 in order to develop the farm buildings into dwellings.
- The proposals were sent to pre-order consultation to which comments were received from the Ramblers Association and the Open Spaces Society which were answered by the applicant.
- There were no objections to the proposals.

Further information on the subject of this report is available from
Sue White, Assistant Rights of Way Officer on (01432) 842106

Alternative Options

- 1 Under Section 119 of the Highways Act 1980 the Council has the power to make diversion orders. It does not have a duty to do so. The Council could reject the application on the grounds that it does not contribute sufficiently to the wider ambitions and priorities of the Council, however, if the order is not made as recommended then the existing path will remain obstructed.

Reasons for Recommendations

- 2 The public path order should be made because it is felt that it meets the criteria set out in s 119 of the Highways Act and the Council's Public path order policy and there have been no objections at pre-order consultation stage. The existing legal line of the public right of way is currently obstructed by a fence and a retaining wall.

Introduction and Background

- 3 Before an order is made to divert a footpath under the Highways Act 1980, it is necessary to gain a decision from the Regulatory Committee as they hold the delegated authority to make this decision.

Key Considerations

- 4 John Ruck, who is the applicant, made the application in 2007. The reasons given for making the application were that a representative of Herefordshire Council had redirected the footpath on the ground but not the legal line of the path.
- 5 Mr Ruck originally made an application to divert the path under the Town and Country Planning Act 1990 as part of permitted development of the site. However the development was substantially completed before an order could be made. As a consequence Mr. Ruck has been required to re submit an application to move the path under the s.119 of the Highways Act.
- 6 The applicant has carried out all pre order consultation. The proposal has general agreement although both the Open Spaces Society and the Ramblers Association made comments relating to works required on the proposed route, however, this work has since been carried out and the affected landowners , whose properties are also affected by the application, have agreed to the proposals.
- 7 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order. The other affected landowners have given their written consent to the proposals and the applicant has signed an agreement to defray any compensation that may become payable as a consequence of the making of this order.
- 8 The local member, Cllr. McCaull and Cllr. Hunt were consulted. Cllr. Hunt supports the application and no objections have been received from Cllr. McCaull.
- 9 The proposed diversion meets the specified criteria as set out in Council policy section 119 of the Highways Act 1980 in particular that:
 - The proposal benefits the owners of the land crossed by the existing path.
 - The proposal is not substantially less convenient to the public.

Community Impact

9 Leominster town council were consulted and stated that they do not hold any objections to the proposals.

Financial Implications

10 The applicant has agreed to pay all costs necessary for the making of this order.

Legal Implications

11 Under Section 119 of the Highways Act 1980 the Council has the power to make diversion orders. It does not have a duty to do so

Risk Management

12 There is a risk that if made, the order may receive objections, however, this is unlikely as there were no objections to pre-order consultation.

Consultees

13

- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Members – Cllr. R C Hunt and Cllr. P J McCaull
- Leominster Town Council.
- Statutory Undertakers.

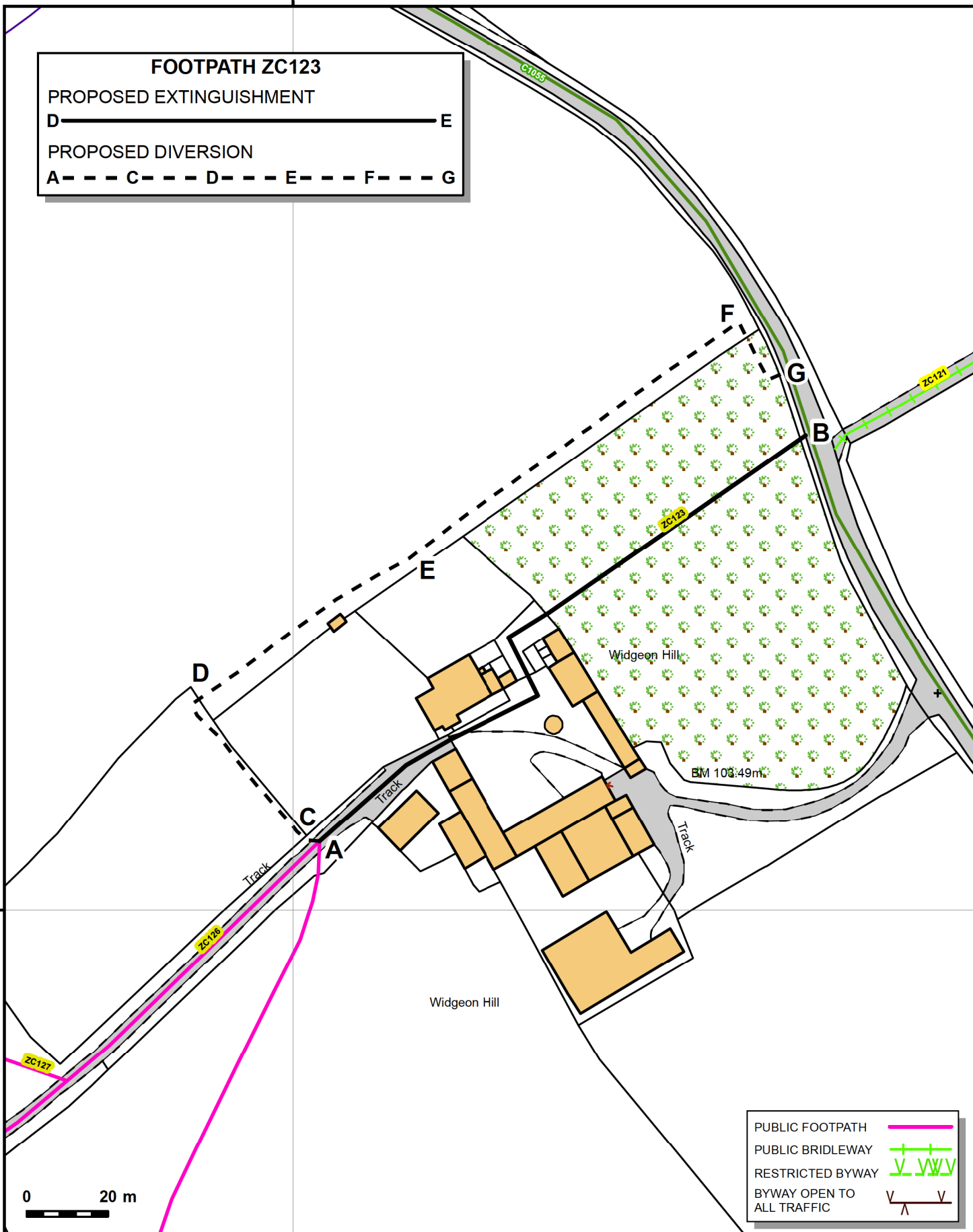
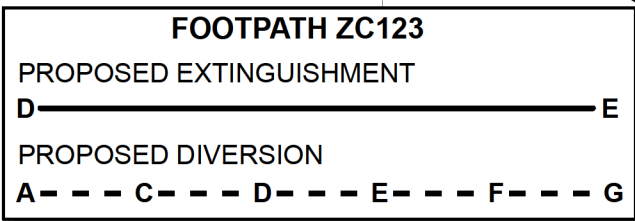
Appendices

14 Order Plan, drawing number: D390/226-123(i) and Order and Schedule.

Background Papers

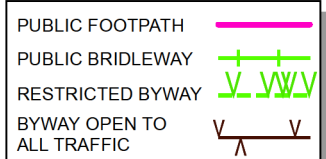
- None identified.

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**PARISH OF LEOMINSTER
 PROPOSED DIVERSION OF PUBLIC FOOTPATH ZC123 (PART)**



**DWG No.: D390/226-123 (i)
 SCALE 1: 1,250**

Amey Herefordshire
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 Hereford HR2 6JT
 Tel.: (01432) 845 900

Email: ameyherefordshire@amey.co.uk

MEETING:	REGULATORY SUB COMMITTEE
DATE:	26 APRIL 2011
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119, PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH GR26 (PART) IN THE PARISH OF GOODRICH
PORTFOLIO AREA:	Highways and Transportation

CLASSIFICATION: Open

Wards Affected

Kerne Bridge

Purpose

To consider an application under the Highways Act 1980, Section 119, to make a Public Path Diversion Order to divert part of footpath GR26 in the parish of Goodrich.

Key Decision

This is not a Key Decision.

Recommendation

THAT:- a Public Path Diversion Order is made under Section 119 as illustrated in drawing number D385/154-26(ii)

Key Points Summary

- The proposed diversion, applied for in September 2007, will move the current footpath further away from a residential property
- There have been no objections to the proposal following pre order consultations
- Officer are supporting the application

Alternative Options

- 1 Under Section 119 of the Highways Act 1980 the Council has the power to make diversion orders, it does not have a duty to do so. The Council could decide not to make an Order. However this may be considered unreasonable as the proposed diversion is very minor and no objections have been raised

Further information on the subject of this report is available from
Will Steel, Rights of Way Manager on (01432) 845980

Reasons for Recommendations

- 2 The Public Path Order should be made because it is felt that it meets the criteria set out in Section 119 of the Highways Act 1980 in that it is in the interests of the landowner and is not substantially less convenient to the public and it is consistent with Herefordshire Council's Policy regarding Public Path Orders.

Introduction and Background

- 3 This report is being considered by the Regulatory Sub Committee because it has the delegated authority to make the decision whether or not to make an Order.

Key Considerations

- 4 Mr J. V. Waters and Miss A. L. Jones the landowners, made the application on 29th September 2007. The reasons given were to restore the rustic nature of the footpath and improve privacy.
- 5 The existing path runs close to the frontage of Rowlands Coach house. The proposed new route (A to B on the enclosed Plan) is situated about 4 to 5 metres away from the existing line and is in an adjoining field. The applicants own the majority of the land onto which it is proposed to divert the path and have the support and agreement of the other owner for the proposal.
- 6 The proposed new route will pass through two field gates which are included as limitations within the Order.
- 7 The applicant has carried out all pre-Order consultations. The proposal has been agreed by all the consultees including user groups and the Parish Council. The Local Member has also been consulted and has raised no objections.
- 8 The applicant has agreed to reimburse in full the Council's standard charge for making the diversion Order and pay for advertising costs.
- 9 The proposed diversion meets the specified criteria set out in Section 119 of the Highways Act 1980, and in particular that:
 - The proposal benefits the owner of the land crossed by the existing path.
 - The proposal is not substantially less convenient to the public as it provides an acceptable alternative to passing immediately in front of the house and is therefore likely to be preferred by user groups.

Community Impact

- 10 There is no significant community impact.

Financial Implications

- 11 The applicants have agreed to pay the Council's standard fee for the making of a diversion Order and to pay the associated advertising costs. The applicant has also agreed to meet the costs of bringing the path into a suitable condition if necessary and to maintain the path. Should objections be lodged as a result of making an Order and the Order is submitted to the Secretary of State, then the Council would be required to meet the costs incurred.

Legal Implications

- 12 Under Section 119 of the Highways Act 1980 the Council has the power to make diversion Orders. It does not have a duty to do so...

Risk Management

- 13 If an order is made to divert Footpath GR26 as recommended within this Report, there is a risk that the Order will receive objections and would therefore require referral to the Secretary of State which will increase the demands on officer time and resources. However, extensive informal consultations have taken place to minimise the risk of such objections

Consultees

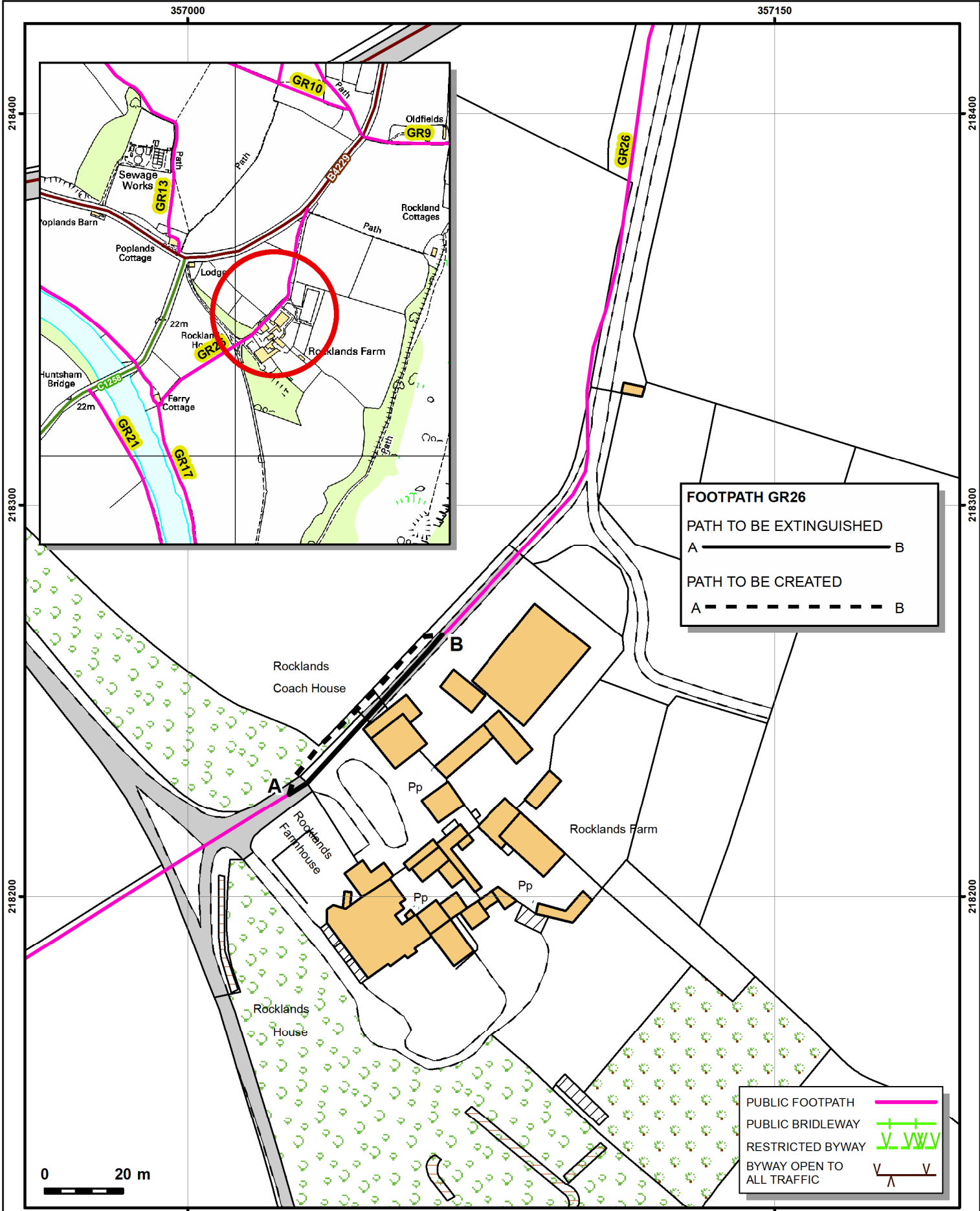
- 14 The following have been consulted about the proposals:
- Prescribed organisations as per Defra Rights of Way Circular 1/09
 - Local Member, Councillor J G Jarvis
 - Goodrich & Welsh Bicknor Group Parish Council
 - Statutory Undertakers

Appendices

- 15 Draft Order and Order Plan, drawing number: D385/154-26(ii).

Background Papers


- None identified.





FOOTPATH GR26


PATH TO BE EXTINGUISHED
 A ————— B

PATH TO BE CREATED
 A - - - - - B

PUBLIC FOOTPATH 

PUBLIC BRIDLEWAY 

RESTRICTED BYWAY 

BYWAY OPEN TO ALL TRAFFIC 



HIGHWAYS ACT 1980, SECTION 119
HEREFORDSHIRE COUNCIL - FOOTPATH GR26 (PART)
PARISH OF GOODRICH
PUBLIC PATH DIVERSION ORDER 2011

DWG No.: D385/154 - 26(ii)
SCALE 1: 1,250

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 Email: ameyherefordshire@amey.co.uk

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	26 APRIL 2011
TITLE OF REPORT:	APPLICATION FOR VARIATION OF A PREMISES LICENCE 'MALTHURST NORTHSIDE SERVICE STATION, HEREFORD ROAD, HOPE UNDER DINMORE HR6 0PJ.' - LICENSING ACT 2003
PORTFOLIO AREA:	ENVIRONMENTAL HEALTH & TRADING STANDARDS

CLASSIFICATION: Open

Wards Affected

Hampton Court

Purpose

To consider an application for the variation of a premises licence in respect of the 'Malthurst Northside Service Station, Hereford Road, Hope under Dinmore, HR6 0PJ.'

Key Decision

This is not a Key Decision.

Recommendation

THAT Sub-Committee determine the application with a view to promoting the licensing objectives in the overall interests of the local community. They should 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, and
- The Herefordshire Council Licensing Policy.

Key Points Summary

- The police have made representation as a Responsible Authority
- One (1) representation from members of the public

Further information on the subject of this report is available from
Fred Spriggs – Licensing Officer 01432 383542

Options

- 1
 - a) 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,
 - b) 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 conditions set out in the Licensing Act 2003,
 - c) To exclude from the scope of the licence any of the licensable activities to which the application relates,
 - d) To refuse to specify a person in the licence as the premise supervisor, or
 - e) To reject the application.

Reasons for Recommendations

- 2 Ensures compliance with the Licensing Act 2003.

Introduction and Background

3 Background Information

Applicant	Malthurst Limited Vincent House, 4 Grove lane, Epping CM16 4LH	
Solicitor	Winkworth Sherwood LLP Minerva House, 5 Motague Close, London, SE1 9BB	
Type of application: Variation Application	Date received: 05/03/2011	28 Days consultation 01/04/2011

Licence Application

- 4 The application for a variation to the premises licence has received representation and is brought before the committee for determination.

Current Licence

- 5 The current licence authorises: -

Sale by retail of Alcohol:

Monday – Saturday 08:00 – 23:00

Sunday 10:00 - 22:30

Non Standard Hours: None

Christmas Day 12:00 – 15:00 and 19:00-22:30

Good Friday 08:00 – 22:30

Summary of Application

6 The application requests:

i) The hours be extended as follows:

Sale by retail of Alcohol (Off premises):

Monday – Sunday 00:00 – 24:00

ii) Removal of the restrictions relating to:

Christmas Day 12:00 – 15:00 and 19:00-22:30

Good Friday 08:00 – 22:30

iii) Addition of the following licensable activity:

Provision of Late Night Refreshment (both indoors and outdoors)

Mon – Sun 2300 – 0500

iv) Removal of the embedded restrictions in Annex 2 of the licence – ‘Conditions consistent with the operating schedule’ and all references to embedded restrictions.

v) Include in Annex 2 – the conditions in boxes b to e of Section P of the operating schedule

Summary of Representations

7 A copy of the representations can be found within the background papers.

8 Representation has been made by:

The Police

One (1) member of the public

Key Considerations

9 THAT Sub-Committee determine the application with a view to promoting the licensing objectives in the overall interests of the local community. They should 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, and
- The Herefordshire Council Licensing Policy.

Clarification on a particular point

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

The Licensing Authority will require evidence to show that the premises are not an ‘excluded premises’ as defined in Section 176 of the Act.

Clarification is required of the term ‘adequate’ used in relation to ‘levels of staff’ under Public Safety and ‘waste receptacles’ under The Prevention of Public Nuisance.

Clarification is required in relation to the level and nature of training provided to cashiers under the Protection of Children from Harm.

You are invited to offer enforceable conditions in relation to Public Safety, The Prevention of Public Nuisance and Protection of Children from Harm.

Community Impact

- 10 The granting of the licence as applied for may have an impact on the Community.

Legal Implications

- 11 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.

- 12 The case of *Murco Petroleum Limited - v - Bristol City Council* (Case No: CO/14774/2009) in the High Court of Justice, Queen's Bench Division Administrative Court on 24 June 2010 Before : MR JUSTICE CRANSTON

- 13 A High Court case that clarified the interpretation of s176 of the Licensing Act 2003:

176 Prohibition of alcohol sales at service areas, garages etc.

(1) No premises licence, club premises certificate or temporary event notice has effect to authorise the sale by retail or supply of alcohol on or from excluded premises.

(2) In this section "excluded premises" means—

(a) premises situated on land acquired or appropriated by a special road authority, and for the time being used, for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class I (with or without other classes); or

(b) premises used primarily as a garage or which form part of premises which are primarily so used.

(3) The Secretary of State may by order amend the definition of excluded premises in subsection (2) so as to include or exclude premises of such description as may be specified in the order.

(4) For the purposes of this section—

(a) "special road" and "special road authority" have the same meaning as in the Highways Act 1980 (c. 66), except that "special road" includes a trunk road to which (by virtue of paragraph 3 of Schedule 23 to that Act) the provisions of that Act apply as if the road were a special road,

(b) "class I" means class I in Schedule 4 to the Highways Act 1980 as varied from time to time by an order under section 17 of that Act, but if that Schedule is amended by such an order so as to add to it a further class of traffic, the order may adapt the reference in subsection (2)(a) to traffic of class I so as to take account of the additional class, and

(c) premises are used as a garage if they are used for one or more of the following—

(i) the retailing of petrol,

(ii) the retailing of derv,

(iii) the sale of motor vehicles,

(iv) the maintenance of motor vehicles.

The court also addressed the issue of the power of licensing sub-committees to make enquiries of the applicant at licensing hearings, and to adjourn decisions under s12 of the

Hearings Regulations.

Key points:

Primary use and trading information

* If the licensing authority's discretion is engaged by the submission of a relevant representation, the licensing sub-committee is entitled to request information from the applicant regarding primary use of the premises. (In this case the information sought related to trading information relevant to the issue of "excluded premises" under s176 LA03.

* As a matter of law, trading figures can be used to determine the issue of primary use under s176 LA03.

Procedural issues: questions at the hearing; adjournments

* The sub-committee is entitled to ask questions regarding the application at the hearing itself, as s17 of the Hearings Regulations permits the sub-committee to ask any question of any party (i.e. the sub-committee is not limited to the questions that may have been set out in advance within the notice of hearing under regulations 6 and 7 of the hearings regulations.

* If the information supplied by the applicant does not satisfactorily address the authority's question, then an adjournment to a specified date is permitted under s12 Hearings Regulations.

* A further adjournment to a specified date if the requested information is still not provided by the applicant is also valid under s12 of the regulations, meaning that a sub-committee is entitled to adjourn the matter until the information is provided.

* In contrast, a general adjournment (i.e. with no specific date) would not be valid.

- 14 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: -

- 15 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.

- 16 Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.

- 17 This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL 648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

In addition to this it was stated that any condition attached to the licence should be an enforceable condition.

- 18 Schedule 5 gives a right of appeal to: -

Rejection of applications relating to premises licences

1 Where a licensing authority—

- (a) rejects an application for a premises licence under section 18,

- (b) rejects (in whole or in part) an application to vary a premises licence under section 35,
- (c) rejects an application to vary a premises licence to specify an individual as the premises supervisor under section 39, or
- (d) rejects an application to transfer a premises licence under section 44,
the applicant may appeal against the decision.

Decision to grant premises licence or impose conditions etc.

2(1) This paragraph applies where a licensing authority grants a premises licence under section 18.

(2) The holder of the licence may appeal against any decision—

(a) to impose conditions on the licence under subsection (2)(a) or (3)(b) of that section,
or

(b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor).

(3) Where a person who made relevant representations in relation to the application desires to contend—

(a) that the licence ought not to have been granted, or

(b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section,

he may appeal against the decision.

(4) In sub-paragraph (3) “relevant representations” has the meaning given in section 18(6).

19 Section 9 states that any such appeal must be made to a Magistrates Court for the area in which the premises are situated within 21 days of notification of the decision.

Consultees

20 Responsible authorities and persons living within the vicinity or with a business interest within the vicinity of the premises.

21 A copy of the application was served on the responsible authorities. This was backed up by an email sent to them by the Licensing Authority.

22 The notice of application was displayed on the premises prior to the start of the consultation period and for a period of 28 days. In addition, notice of the application was required to be published in a newspaper which was circulated within the vicinity of the premises.

23 The applicant has produced a copy of the advertisement but this cannot be verified at this time as no newspaper or date is shown on the cutting.

Appendices

- 24 a. Police representation
- b. Application Form
- c. Public Representation
- d. LACORS guidance

Background Papers

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

Application to vary a premises licence 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 Malthurst Limited

(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number PR00104

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description Malthurst Northside Hereford Road Hope under Dinmore			
Post town	Leominster	Post code	HR6 0PJ

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£40,500

Part 2 – Applicant details

Daytime contact telephone number	01992 571937		
E-mail address (optional)			
Current postal address if different from premises address	Vincent House 4 Grove Lane All correspondence to: Winckworth Sherwood LLP (Ref: EMF/28715/32/RPB) Minerva House 5 Montague Close London SE1 9BB		
Post Town	Epping	Postcode	CM16 4LH

Part 3 - Variation

Please tick yes

Do you want the proposed variation to have effect as soon as possible?

If not do you want the variation to take effect from

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please describe briefly the nature of the proposed variation (Please see guidance note 1)
A petrol forecourt store selling a broad range of groceries, household products and alcohol.
Situated at Malthurst Northside, Hereford Road, Hope under Dinmore, Leominster, HR6 0PJ.

1. Extension of the hours for the sale of alcohol to 24 hours daily.
2. Provision of late night refreshment between the hours of 23.00 and 05.00 daily.
3. To remove the embedded restrictions in Annex 2 - 'Conditions consistent with the operating schedule' and all references to embedded restrictions.
4. To include in Annex 2 the conditions in boxes b to e of Section P of the operating schedule.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

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)

Sale by retail 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)			<u>Will the performance of a play 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 performing plays</u> (please read guidance note 4)		
Wed					
Thur			<u>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</u> (please read guidance note 5)		
Fri					
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			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 4)
Tue			<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)
Wed			
Thur			
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			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 4)		
Wed					
Thur			<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)		
Fri					
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"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 4)		
Tue					
			<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)		
Wed					
Thur					
Fri					
Sat					
Sun					

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			<u>Please give a description of the type of entertainment you will be providing</u>		
Day	Start	Finish	<u>Will this entertainment take place 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					
Fri			<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)		
Sat					
Sun					
			<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)		

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"/>
			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 provision of facilities for making music</u> (please read guidance note 4)	
Wed				
Thur			<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)	
Fri				
Sat				
Sun				

J

Provision of facilities for dancing Standard days and timings (please read guidance note 6)			<u>Will the facilities for dancing be indoors or outdoors or both – please tick</u> (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 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	Will the entertainment facility be indoors or outdoors or both – please tick (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 type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon	0000	0500	The provision will take place inside the premises but customers may leave the premises with items purchased.		
	2300	2400			
Tue	0000	0500			
	2300	2400			
Wed	0000	0500	State any seasonal variations for the provision of late night refreshment (please read guidance note 4)		
	2300	2400			
Thur	0000	0500			
	2300	2400			
Fri	0000	0500	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 (please read guidance note 5)		
	2300	2400			
Sat	0000	0500			
	2300	2400			
Sun	0000	0500			
	2300	2400			

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 checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Mon	0000	2400			
Tue	0000	2400			
Wed	0000	2400			
Thur	0000	2400			
Fri	0000	2400			
Sat	0000	2400			
Sun	0000	2400			
			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

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)

The premises sell alcohol and other age restricted products.

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)
Day	Start	Finish	
Mon	0000	2400	
Tue	0000	2400	
Wed	0000	2400	
Thur	0000	2400	
Fri	0000	2400	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)
Sat	0000	2400	
Sun	0000	2400	

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking

1. The embedded restrictions set out in the licence.
2. The hours for the sale of alcohol are currently restricted to:

Monday to Saturday (other than Christmas Day):	0800 to 2300
Sunday (other than Christmas Day)	1000 to 2230
Good Friday	0800 to 2230
Christmas Day	1200 to 1500 and 1900 to 2230.

The above restrictions would be removed as a consequence of the proposed variation.

Please tick yes

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below

Reasons why I have failed to enclose the premises licence or relevant part of premises licence

P Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

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

b) The prevention of crime and disorder

1. A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.
2. The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will either be recorded on good quality video tape or digitally on to CD/DVD or other equivalent medium.
3. Any recording shall be retained and stored in a suitable and secure manner for a minimum of 28 days and shall be made available, subject to compliance with Data Protection legislation, to the police for inspection on request.
4. The CCTV system will incorporate a camera covering the entrance door and the alcohol display areas and will be capable of providing an image which is regarded as identification standard. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.
5. The system will display, on any recording, the correct time and date of the recording.
6. A system will be in place to maintain the quality of the recorded image and a complete audit trail maintained.
7. The CCTV system will be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity.

c) Public safety

The applicant will at all times maintain adequate levels of staff. Such staff levels will be disclosed, on request, to the licensing authority and police

d) The prevention of public nuisance

Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.

e) The protection of children from harm

The licence holder shall ensure that all cashiers are trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 21 years (or older if the licence holder so elects) for evidence of age. This evidence shall be photographic, such as passport or photographic driving licence until other effective identification technology (for example, thumb print or pupil recognition) is introduced. All cashiers will be instructed, through training, that a sale shall not be made unless this evidence is produced. Prominent notices will be displayed in the store advising customers that they may be asked to provide evidence of age.

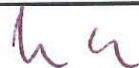
Please tick yes

- I have made or enclosed payment of the fee
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I understand that I must now advertise my application
- I have enclosed the premises licence or relevant part of it or explanation
- 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 5 – Signatures (please read guidance note 10)

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

Signature	
Date	3 March 2011
Capacity	Solicitors duly authorised on behalf of the Applicant

Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) 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 address for correspondence associated with this application (please read guidance note 13)

EMF/28715/32/RPB
 Winckworth Sherwood LLP
 Minerva House
 5 Montague Close

Post town	London	Post code	SE1 9BB
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Telephone number (if any)	020 7593 5155
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If you would prefer us to correspond with you by e-mail your e-mail address (optional)
 efinlay@wslaw.co.uk

Notes for Guidance

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence you should make a new premises licence application under section 17 of the Licensing Act 2003.

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 state 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.

Williams, Rebecca

From: Mooney, James [james.mooney@westmercia.pnn.police.uk]
Sent: 09 March 2011 15:35
To: Licensing; Spriggs, Fred
Subject: Premises licence application - Malthouse Northside, Hope under Dinmore
Follow Up Flag: Follow up
Flag Status: Red

PROTECT - DESCRIPTOR

West Mercia Police are in receipt of an application to vary the premises licence for Malthouse Northside, Hope under Dinmore. This premises is a garage and convenience store which has operated with a premise licence for a number of years without any significant issues reported or recorded.

West Mercia Police has the following representations for this application, in order to address the licensing objectives, for consideration for any variation granted -

(1) An incident log must be kept at the premises, and made immediately available on request to an authorised officer of the Council or the Police, which must record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received
- (d) any incidents of disorder
- (e) any faults in the CCTV system or searching equipment or scanning equipment
- (f) any refusal of the sale of alcohol
- (g) any visit by a relevant authority or emergency service

(2) CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition

Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale/ supply of alcohol occurs.

Equipment MUST be maintained in good working order, be correctly time and date stamped, recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand.

The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format EITHER DISC or VHS to the Police/Local Authority on demand.

The Recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

14/03/2011

In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Police on contact number 0300 333 3000 immediately.

(3) All staff shall be trained within 2 weeks of taking up employment. The training shall included -

- Drugs Awareness
- Conflict resolution
- Selling to under age person
- Selling to drunks

Such training will be recorded and records shall be kept at the premises which will be produced to an authorised officer the licensing authority or the police on demand.

(4) The premises shall operate a Challenge 21 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of the Licensing Authority or Police. Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed at all entrances to the premises as well as at, at least one location behind any bar advertising the scheme operated.

(5) The premises licence holder will ensure that with regards to age verification, that all staff will be aware that the only acceptable means of age verification, is that as stated in Herefordshire District Council Licensing Policy - that is a photographic driving licence or passport with hologram photograph. Signs indicating such will be displayed in a prominent position in the store.

Some of the above conditions already apply to the current premises licence and are stated in order to greater clarity to any licence issued. These are the minimum conditions that are requested to any licence granted.

Jim Mooney
Police Licensing Officer
Territorial Policing Unit - Herefordshire
West Mercia Police
01432 347102 (direct line)
07792 366 462 (work)
licensing.herefordshire@westmerciam.pnn.police.uk

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Unauthorised use or disclosure of the content may be unlawful.

14/03/2011

[REDACTED]

Spindle Cottage
Newton
Leominster
Herefordshire
HR6 0PF



27th March 2011

Licensing Section
Environmental Health & Trading Standards
Hereford County Council
Herefordshire

Dear Sirs,

Licensing Application Ref: PR000104

I wish to object to the application to extend the sale of alcohol for 24 hours at the Northside Garage Hereford Rd Hope under Dinmore.

This shop is very near to a residential mobile home estate and an estate within easy walking distance where there are numerous families with children. There are already problems because of the country village location with no amenities. The easy availability of alcohol at night would be very tempting and inevitably lead to excessive drinking amongst the youngsters; leading to all the associated crime and disorder.

The probable noisy behaviour would be a great public nuisance. The Council has been endeavouring to deal with these issues over many years and to add easy access to alcohol nearby would, potentially, add to our problem. We should also consider the potential harm to the young people. To get to this shop they will be walking along the main road; if they are in groups there is the possibility of some of the group 'spilling' onto the road; a danger to themselves and vehicles.

This garage is sited at a site of very serious accidents over the years. It is a main road at a major junction, the last place one should be considering the sale of alcohol; encouraging drinking and driving.

Yours faithfully,

[REDACTED]

Lyn M. Goodwin

Garages and Petrol Stations: s176 LA03

Local Government Regulation has received a number of queries about issues that arise when dealing with applications for premises licences at petrol stations and garages (potentially “excluded” premises – see below).

S176 LA03 states that “premises used primarily as a garage or which form part of premises which are primarily so used” are excluded premises, and that no premises licence, club premises certificate or temporary event notice has effect to authorise the sale by retail or supply of alcohol on or from excluded premises.

In particular 3 key questions have been raised where licensing authorities’ approaches have been challenged by applicants:-

- ***Must an application relating to a garage/petrol station premises include evidence as to “primary use”?***
- ***At what stage in the application process is evidence required from the applicant regarding primary use?***
- ***Does s176 mean that licensing authorities can refuse to process an application for a premises licence if it appears that the premises is caught by s176?***

Notwithstanding that where licensing authority decisions are challenged or prosecutions brought it will ultimately be for the courts to decide what the terms of the Act mean in any given context, the following information and commentary may assist licensing authorities in deciding which approach to take to such applications. Commentary is offered in italics on each approach described.

The High Court case of *Murco v Bristol City Council [2010] EWHC 1992 (Admin)* deals with the first two questions listed above, including the “primary use” issue arising under s176, and procedural issues that may arise when the licensing sub-committee is dealing with an application by a petrol station or garage. It does not comment on the third question, but authorities may wish to consider whether to continue to adopt that approach in view of the useful comments from the High Court regarding the procedural issues related to s176.

For a summary of the case and a copy of the judgement, please follow this [link](#).

Current practice

Licensing authorities differ in the approach they take to applications by premises potentially caught by s176, usually adopting one or other of the following procedures:

1). Accept the application without evidence of primary use on the assumption that representations will be forthcoming from responsible authorities on the basis of crime and disorder, if primary use is likely to be an issue.

If this approach is followed, a licensing sub-committee hearing will only occur if representations are forthcoming from responsible authorities or interested parties, with an automatic grant if there are no representations.

The police and/or interested parties, for example, may have concerns about s176 following an application by a potentially excluded premises based within or at a garage or petrol station, and may raise representations in the usual way if an application proceeds, making representations on the basis of the crime and disorder objective, (i.e. on the basis that sales of alcohol at an excluded premises would necessarily constitute s136 offences).

The issue of primary use could be dealt with in mediation, with police and/or interested party and other responsible authority representations being withdrawn on the basis of satisfactory evidence of primary use and suitable conditions requiring future disclosure of sales data (see example condition below).

If agreement is not reached then the application would proceed to a hearing in the usual way and the sub-committee can request evidence on primary use as part of its decision as to whether to grant or refuse the application by considering the potential impact on the licensing objectives.

Commentary:

Note: if there are no representations, the licensing authority automatically grants the application and thereafter the only remaining role for the licensing authority is in relation to compliance and enforcement.

Some licensing authorities that have permitted such applications to proceed have been in the position of having to grant licences (i.e. in the absence of representations) for premises that they subsequently believe to be trading in breach of s176, but in the absence of access to sales/footfall data and with no means of obtaining this information post-grant, enforcement officers are unable to assess whether the premises is trading lawfully or not.

Licensing authorities that have adopted this approach are aware that such premises may be granted licences by default in the event of no representations being received, and with no consideration at all of the s176 issue. On the other hand, there is less risk of challenge by applicants than with other approaches.

Example condition re s176

One authority has provided Local Government Regulation with the following example of a decision and condition, following a recent hearing of an application where s 176 was of relevance:-

“Following representations from the police regarding crime and disorder, including the potential for sales to be made from an excluded premises and the difficulty of obtaining information and of enforcement in the event of this occurring, the licence was granted, subject to a condition that: **The data that [the applicant company] produces to satisfy themselves that they are not an excluded premises shall be submitted to the licensing authority via the licensing officer on a quarterly basis**”.

Commentary: this condition may be useful to any licensing sub-committee that lacks sufficient information regarding whether a premises is excluded by s176, and the use of such a condition allows responsible authorities and the licensing authority to obtain the necessary information to verify the status of premises after a licence has been granted, and to reassure responsible authorities and interested parties who may have concerns about the premises. This maybe particularly useful in the case of new premises, where there will be no trading information available for the sub-committee.

2) Refuse to accept an application without evidence from the applicant that they are not caught by s 176; the application is only accepted and processed once there is sufficient evidence that the primary use of the premise is not as a garage.

If following this approach, the licensing authority declines to proceed with the application until the applicant provides sufficient evidence to establish that the premises are not excluded premises.

Commentary on this approach:

Licensing authorities have to decide what sort of evidence they require from applicants, and how to analyse it in order to establish primary use. High Court cases decided under the previous licensing regime provided guidance on how to approach this issue; e.g. Green v Justices for the Inner London Area (1994) QBD (Divisional Court); R v Liverpool Crown Court ex parte Kevin John Goodwin (unreported, December 17, 1998).*

**[New premises present a challenge for licensing authorities who adopt this approach, as they will only have sales projections and no actual sales data to support their application].*

DCMS has suggested that the usual principles of public decision-making would apply in respect of any position taken by the authority on this issue. It follows that the authority should not decline to proceed further with an application without first giving the applicant an adequate opportunity to persuade it that the exclusion didn't apply. A hearing before

the licensing sub-committee could be an adequate opportunity, for example. The licensing authority would then determine via the meeting of its licensing committee whether or not a premises is excluded, only after having heard the applicant's submissions, which could

include witnesses (e.g. the applicant, responsible authorities etc participating in the hearing).

Then, if having taken into account the applicant's case, a licensing authority still believes that the premises in question is an 'excluded premises', it would decline to process the application on the grounds that the licence would have no effect as per s176, and the licensing authority has no legal authority to grant such a licence.

If the applicant disagrees with a decision taken by the licensing authority to the effect that the premises is an 'excluded premises', the applicant would be entitled to seek a Judicial Review of that decision.

Question for feedback: *is this approach taken by your licensing authority and what legal authority do you rely on in order to call such a hearing?*

Statement of Licensing Policy

Authorities may consider that the licensing of petrol stations and garages is an issue that should be covered in their Licensing Policy, especially if they have adopted the approach of requiring evidence of primary use from the outset of the application rather than relying on police or other representations to trigger consideration of s176. Some operators already automatically submit sales data or other evidence as to primary use with their application, and authorities can encourage this via the Statement of Licensing Policy.

For example, authorities may wish to include a statement setting out the circumstances in which licences to sell alcohol at garages can be granted (i.e. the circumstances in which the licensing authority generally considers premises are not used primarily as a garage. This may be of particular importance in rural areas where the garage is also the main village shop. The licensing authority could also set out in its policy useful information for applicants on how to present sales data or other evidence in support of applications at premises that may raise issues under s176.

Feedback

Please send any queries and/or feedback to emily.scantlebury@local.gov.uk, including examples and case-studies.

Petrol Stations: High Court Case

04/08/2010

A recent High Court case has clarified the interpretation of s176 of the Licensing Act 2003.

The court also addressed the issue of the power of licensing sub-committees to make enquiries of the applicant at licensing hearings, and to adjourn decisions under s12 of the Hearings Regulations.

The full judgement is available [here](#).

Key points:

Primary use and trading information

* If the licensing authority's discretion is engaged by the submission of a relevant representation, the licensing sub-committee is entitled to request information from the applicant regarding primary use of the premises. (In this case the information sought related to trading information relevant to the issue of "excluded premises" under s176 LA03.

* As a matter of law, trading figures can be used to determine the issue of primary use under s176 LA03.

Procedural issues: questions at the hearing; adjournments

* The sub-committee is entitled to ask questions regarding the application at the hearing itself, as s17 of the Hearings Regulations permits the sub-committee to ask any question of any party (i.e. the sub-committee is not limited to the questions that may have been set out in advance within the notice of hearing under regulations 6 and 7 of the hearings regulations.

* If the information supplied by the applicant does not satisfactorily address the authority's question, then an adjournment to a specified date is permitted under s12 Hearings Regulations.

* A further adjournment to a specified date if the requested information is still not provided by the applicant is also valid under s12 of the regulations, meaning that a sub-committee is entitled to adjourn the matter until the information is provided.

* In contrast, a general adjournment (i.e. with no specific date) would not be valid.

Note: this is a High Court judgement and therefore binds all courts below.

Emily Scantlebury
Policy Officer
emily.scantlebury@local.gov.uk
020 7665 3873

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	26 APRIL 2011
TITLE OF REPORT:	APPLICATION FOR GRANT OF A LICENSED PREMISES GAMING MACHINE PERMIT FOR 4 MACHINES IN RESPECT OF 'THE DUKE'S HEAD INN, CORN SQUARE, LEOMINSTER, HR6 8LR' – SECTION 283 GAMBLING ACT 2005
PORTFOLIO AREA:	ENVIRONMENTAL HEALTH & TRADING STANDARDS PUBLIC HEALTH DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Leominster South

Purpose

To consider an application for the grant of a Licensed Premises Gaming Machine Permit for 4 machines, in respect of 'The Duke's Head, Corn Square, Leominster, HR6 8LR.'

Key Decision

This is not a Key Decision.

Recommendation

THAT Sub-Committee determine the application with a view to promoting the licensing objectives which are:

- (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,**
- (b) ensuring that gambling is conducted in a fair and open way, and**
- (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.**

The committee should also take into consideration:

- The 'Guidance to Licensing Authorities 3rd Edition' issued by the Gambling Commission
- Herefordshire Council Gambling Policy

Further information on the subject of this report is available from
Fred Spriggs – Licensing Officer 01432 383542

- Gaming Machine Permits Code of Practice - Club Gaming Permits and Club Machine Permits - Alcohol Licensed Premises Permits and Permissions - June 2007 issued by the Gambling Commission

Key Points Summary

- The premises currently has given notification under Section 282 – automatic entitlement to 2 gaming machines
- Application to increase to 4 machines
- Officers do not have devolved powers to issue.

Options

- 1 (a) grant the application,
- (b) refuse the application, or
- (c) grant it in respect of—
 - (i) a smaller number of machines than that specified in the application,
 - (ii) a different category of machines from that specified in the application, or
 - (iii) both.

Reasons for Recommendations

- 2 Ensures compliance with the Gambling Act 2005

Introduction and Background

3 Background Information

Applicant	J D Wetherspoon Plc Wetherspoon House, Reeds Crescent, Watford, Hertfordshire, WD24 4QL
Solicitor	Nigel Connor. Wetherspoons
Type of application:	Licensed Premises Gaming Machine Permit

Licence Application

- 4 The application is for the grant of a Licensed Premises Gaming Machine Permit for 4 machine of Category C or D.
- 5 The premises licence holder has given notification of automatic entitlement in respect to 2 machines under Section 282 of the Gambling Act 2005.
- 6 Section 282 however restricts the premises to only 2 machines.
- 7 To enable premises to have 4 machines, application has to be made for a 'Licensed Premises Gaming Machine Permit'.
- 8 Arrangements have been made for the Committee to attend the premises prior to the hearing.
- 9 A plan of the proposed locations of the machines is attached within the background papers.

Key Considerations

- 10 Schedule 13 paragraph 4(1) states:

A licensing authority to whom an application is made under this Schedule shall consider it having regard to the licensing objectives, any relevant guidance issued by the Commission under section 25 and such other matters as they think relevant.

Community Impact

- 12 The granting of the licence as applied is unlikely to have any impact on the Community.

Legal Implications

- 13 Schedule 13 of the legislation states that:

- 5
 - (1) A licensing authority may not attach conditions to a permit.
 - (2) As soon as is reasonably practicable after granting an application, a licensing authority shall issue a permit to the applicant.
 - (3) As soon as is reasonably practicable after refusing an application a licensing authority shall notify the applicant of—
 - (a) the refusal, and
 - (b) the reasons for it.
- 6
 - (1) A licensing authority may grant an application under this Schedule only if the applicant holds an on-premises alcohol licence.
 - (2) A licensing authority may not refuse an application, or grant an application in respect of a different category or smaller number of gaming machines than that specified in the application, unless they have—
 - (a) notified the applicant of their intention to refuse the application, or grant the application in respect of—
 - (i) a smaller number of machines than that specified in the application,
 - (ii) a different category of machines from that specified in the application, or
 - (iii) both, and
 - (b) given the applicant an opportunity to make representations.

- (3) A licensing authority may satisfy sub-paragraph (2)(b) by giving the applicant an opportunity to make—
 - (a) oral representations,
 - (b) written representations, or
 - (c) both.
- (4) Sub-paragraph (2)(b) shall not apply in respect of a refusal if the refusal was by virtue of sub-paragraph (1).

14 Appeal

21(1) The applicant for or holder of a permit may appeal if the licensing authority—

- (a) reject an application for a permit,
 - (b) grant an application for a permit in respect of a smaller number of machines than that specified in the application or a different category of machines from that specified in the application (or both), or
 - (c) give a notice under paragraph 16.
- (2) An appeal under this paragraph must be instituted—
- (a) in the magistrates' court for a local justice area in which the premises to which the appeal relates are wholly or partly situated,
 - (b) by notice of appeal given to the designated officer, and
 - (c) within the period of 21 days beginning with the day on which the appellant or holder receives notice of the decision against which the appeal is brought.

Appendices

- 15 a. Copy of application
- b. Plan of premises
- c. Codes of Practice

Background Papers

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 THE NOTIFICATION / GRANT / VARIATION /
TRANSFER OF A LICENSED PREMISES GAMING MACHINE PERMIT
(FOR USE BY PREMISES LICENSED TO SUPPLY ALCOHOL FOR CONSUMPTION
ON THE PREMISES)**

Please refer to guidance notes at the back of this form before completing

To:
Licensing Section
Herefordshire Council
County Offices
PO Box 233
Bath Street
Hereford HR1 2ZF

EH & TS / LICENSING SECTION
RECEIVED
15 SEP 2010
TO:

Section A – Applicant Details

1. Name of applicant

JD Wetherspoon Plc

2. Date of Birth or Company registration No. as applicable

1709784

3. Address / registered office of applicant

Wetherspoon House, Reeds Crescent, Watford, Hertfordshire WD24 4QL

4. Telephone number (daytime) of applicant

01923477804

5. E-mail address of applicant

bmorrice@jdwetherspoon.co.uk

6. Name, address, telephone and e-mail of agent (e.g. solicitor) if submitted on behalf of the applicant

.....
.....
.....
.....
.....

SECTION B – Premises Details

1. Name of premises

The Duke's Head Inn

.....

2. Address of premises

Corn Square, Leominster, HR6 8LR

.....

3. Telephone number of premises

.....

4. E-mail address of premises (where available)?

.....

5. Licensing Act 2003 Premises Licence Number

PR01269.....

SECTION C – What do you want to do?

Please indicate what you would like to do:

a) Notify licensing authority that you intend to provide up to a maximum total of 2 gaming machines of category C and / or D. *If you choose this option then please complete section F.*

b) Apply to the licensing authority for more than 2 gaming machines. *If you choose this option then please complete sections D and F.*

c) Apply to vary an existing permit. *If you choose this option then please complete sections D and F.*

d) Request that the licensing authority transfers an existing permit to yourself. *If you choose this option then please complete sections E and F.*

SECTION D – Grant and variation requests

1. How many gaming machines are you currently authorised to provide and how many do you wish to provide? Please complete the boxes in the table.

Category machine	Number currently authorised to provide	Number wish to provide
C	4
D
Total	4

2. If you are authorised to provide more than 2 machines, please provide your existing permit, or provide reasons stating why it cannot be provided.

Existing permit provided

Reasons why existing permit cannot be provided

.....

.....

Section E – Transfer request

1. Name of person requesting the transfer

.....

2. Please confirm that an application to transfer the relevant Premises Licence under the Licensing Act 2003 has been:

Requested

Granted

3. Please provide your existing permit, or provide reasons stating why it cannot be provided.

Existing permit provided

Reasons why existing permit cannot be provided

.....
.....
.....
.....
.....

Section F – Fee and Signature(s)

1. *I enclose*

In all cases

- *the relevant fee*

2. *I confirm that*

- *the premises where the machines are proposed to be located are licensed to supply alcohol for consumption on the premises and that there is a bar for serving alcohol to customers on the premises (without the requirement that alcohol is served only with food).*

- *I am aware of and will abide by the Gaming Machine Code of Practice for Alcohol Licensed Premise Permits and Permissions issued by the Gambling Commission.*

- *All staff will be trained as to the limits of any stakes and prizes and the requirements of the Act, Guidance and any appropriate codes of practice or conduct*

Please note: It is an offence under section 342 of the Gambling Act 2005 if a person, without reasonable excuse, gives to a licensing authority for a purpose connected with that Act information which is false or misleading.

Dated 14.9.10

Signed by or on behalf of the applicant M Wetherpoon OLC

Name (please print) M WETHERPOON

* If you wish to have a maximum of 2 gaming machines then the fee payable is £50. If you wish to have more than 2 gaming machines then the fee payable is £100 by an existing operator or £150 in all other cases.

To Vary the Permit £100
To Transfer the Permit £25

GUIDANCE NOTES: APPLICATION FOR THE NOTIFICATION / GRANT / VARIATION / TRANSFER OF A LICENSED PREMISES GAMING MACHINE PERMIT
(FOR USE BY PREMISES LICENSED TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)

1. This form is to be used for the NOTIFICATION of up to 2 gaming machines of categories C and / or D under Section 282 of the Gambling Act 2005, or the GRANT / VARIATION / TRANSFER of a gaming machine permit under Section 283 and Schedule 13 of the Gambling Act 2005.
2. All references to 'Premises Licence' refer to a Premises Licence under the Licensing Act 2003 authorising the sale of alcohol for consumption on the premises.
3. The premises must be licensed under the Licensing Act 2003 to sell alcohol for consumption on the premises.
4. A 'Premises Licence holder' is a person holding a Premises Licence under the Licensing Act 2003.
5. The gaming machines must be located on these licensed premises and there must be a bar for serving alcohol to customers on the premises, without the requirement that alcohol is served only with food.
6. The permit's duration is indefinite as it is linked to the Premises Licence. There is a first annual fee payable 30 days after the grant of the permit and an annual fee payable after that before each anniversary of the date of issue of the permit. Failure to pay the annual fee may result in the cancellation of the permit. The annual fee is £50.
7. Two types of gaming machines can be located in alcohol licensed premises. These are:
 - Category C: Maximum stake = 50p / Maximum prize = £25
 - Category D: Maximum stake = 10p or 30p non-monetary / Maximum prize = £5 cash or £8 non-monetary
8. The holder of a licensed premises gaming machine permit must comply with any relevant Code of Practice issued by the Gambling Commission under Section 24 of the Gambling Act 2005. The Gaming Machine Code of Practice for Alcohol licensed premises permits and permissions is available via the Gambling Commission's website at: <http://www.gamblingcommission.gov.uk/> Should you be unclear as to the provisions of such a code of practice please contact your local licensing officer at the council address provided.
9. This licensing authority must notify the applicant of its grant / refusal of the application for a permit as soon as is reasonable practicable after that decision to grant / refuse has been made.

Official Use Only

Date of receipt:

Signature and name of staff who received:

Date of receipt of fee:

Signature and name of staff who received fee:

Application accepted / returned (please delete as appropriate)

Date of premises licence (Licensing Act 2003) transfer (if applicable):

GAMBLING COMMISSION

Gaming Machine Permits Code of Practice

- Club Gaming Permits and Club Machine Permits

- Alcohol Licensed Premises Permits and Permissions

June 2007

Introduction

- i. This is the Gambling Commission's Code of Practice issued under section 24 Gambling Act 2005 (the Act) relating to provision of facilities for gambling in accordance with club gaming, club machine and licensed premises gaming machine permits. This includes:
 - registrations under Parts II and III Gaming Act 1968 which, under transitional provisions, are treated as club gaming and club machine permits respectively; and
 - alcohol licensed premises gaming machine permits (formerly s34 1968 Act permits).
- ii. The Code will come into force on 1 September 2007.
- iii. Those items marked in bold and shaded are the provisions which are a condition of the permit and must be complied with.

Section A: Location and operation of machines

All permit holders

Compliance with these provisions is a condition of your permit, and failure to do so could result in revocation of the permit.¹

- 1 All gaming machines situated on the premises must be located in a place within the premises so that their use can be supervised, either by staff whose duties include such supervision (including bar or floor staff) or by other means.**

Permit holders must have in place arrangements for such supervision.

- 2 All gaming machines situated on the premises shall be located in a place that requires a customer who wishes to use any ATM made available on the premises to cease gambling at the gaming machine in order to do so. 'ATM' means a machine located on the premises, which enables a person using it to obtain cash by use of a credit or debit card.**

¹ Compliance with these provisions is a condition of the relevant permit as a result of the Gambling Act 2005: section 271 for Club Gaming Permits, section 273 for Club Machine Permits, section 282 for alcohol licensed premises using their automatic machine permissions and section 283 for licensed premises Gaming Machine Permits and alcohol licensed premises Gaming Machine Permits.

Section B: Access to gambling by children and young persons

All permit holders

This section sets out the best practice which the Gambling Commission considers should be implemented by permit-holders, compliance with this provision is not a condition of your permit.

- 3 Permit holders should put into effect procedures intended to prevent underage gambling. This should include procedures for:
 - checking the age of apparently underage customers; and
 - refusing access to anyone who appears to be underage, and who tries to use category B or C gaming machines and cannot produce an acceptable form of identification.
- 4 Permit holders should take all reasonable steps to ensure that all relevant employees understand their responsibilities for preventing underage gambling.
- 5 Permit holders should only accept identification which:
 - contains a photograph from which the individual can be identified;
 - is valid; and
 - is legible and has no visible signs of tampering or reproduction.

(The Commission considers acceptable forms of identification to include any identification carrying the PASS logo (eg Citizencard, Validate and the Government's own Connexions card); driving licence (including a provisional licence) with photocard; and passport).

- 6 Procedures should be in place for dealing with cases where a child or young person repeatedly attempts to gamble on category B or C machines, including oral warnings, reporting the offence to the Gambling Commission and the police, and making available information on problem gambling.

Section C: Self exclusion

This section sets out the best practice which the Gambling Commission considers should be implemented by permit-holders, compliance with this provision is not a condition of your permit.

Club gaming permit and club machine permit holders only

- 7 Permit holders should put in place procedures for self-exclusion and take all reasonable steps to refuse service or to otherwise prevent an individual who has entered a self-exclusion agreement from participating in gambling.
- 8 Permit holders should implement procedures designed to ensure that an individual who has self-excluded cannot gain access to gambling; this includes:
 - a register of those excluded with appropriate records (name, address, other details, and any membership or account details that may be held by the operator);
 - photo identification (where available and in particular where enforcement of the system may depend on photographic ID), and a signature;
 - staff training to ensure that relevant staff are able to enforce the systems; and
 - the removal of those self-excluded persons found in the gambling area or attempting to gamble from the premises.

- 9 Self-exclusion procedures should require individuals to take positive action in order to self-exclude. This can be a signature on a self-exclusion form.
- 10 Before an individual self-excludes, permit holders should provide or make available sufficient information about what the consequences of self-exclusion are. Customers should be given the opportunity to discuss self-exclusion in private, where possible.
- 11 Permit holders should take all reasonable steps to ensure that:
- the self-exclusion period is a minimum of six months and give customers the option of extending this to a total of at least five years;
 - a customer who has decided to enter a self-exclusion agreement is given the opportunity to so do immediately without any cooling off period. However, if the customer wishes to consider the self exclusion further (for example to discuss with problem gambling groups) the customer may return at a later date to enter into self exclusion;
 - at the end of the period chosen by the customer (and at least six months later), maintain the self-exclusion in place, unless the customer takes positive action in order to gamble again. No marketing material may be sent to the individual unless that has taken positive action in order to gamble again, and has agreed to accept such material; and
 - where a customer chooses not to renew, and makes a positive request to begin gambling again, give the customer 1 day to cool off before being allowed access to the gambling facilities.
- 12 Please note that the Commission does not require the permit-holder to carry out an assessment or make any judgement of whether the individual should have access to gambling. The requirement to take positive action in person or over the phone is purely to:
- a) check that the customer has considered the decision to access gambling again and allow them to consider the implications; and
 - b) implement the 1 day cooling-off period and explain why this has been put in place.

Gambling Commission June 2007

The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling, by ensuring that gambling is conducted fairly and openly, and by protecting children and vulnerable people from being harmed or exploited by gambling. The Commission also provides independent advice to government on gambling in Britain.

For further information or to register your interest in the Commission please visit our website at: www.gamblingcommission.gov.uk

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP

T 0121 230 6500

F 0121 233 1096

E info@gamblingcommission.gov.uk

REGULATORY SUB-COMMITTEE
LICENSING APPEAL PROCEDURE

1. Introduction by Legal Advisor to the Committee.
2. Licensing Officer outlines the case.
3. Applicant/Licence holder (or his solicitor) sets out his case.
4. Questions asked by the Committee or Licensing Officer or Applicant/Licence holder.
5. Applicant/Licence holder (or his solicitor) asked if he would like to make further comment or representation, or if he requires time to comment or investigate (if so, Chairman defers application).
6. In dealing with each application, the applicant/Licence holder (and any representative) should also withdraw should be asked to withdraw when they have finished their presentation. All officers, other than the Legal Advisor to the Committee, should also withdraw. It would be preferable for the applicant and officers to await the decision at different locations.
7. If either the applicant/Licence holder or the officer are needed to furnish additional information, they should all be invited back before the Committee. When the additional information has been furnished, they should all be asked to leave again.
8. The Committee can then reach a decision but in the absence of parties.
9. The applicant/Licence holder and officers will then be invited to return. The Chairman will announce the decision. The Chairman should also say that the decision will be communicated in writing in due course, and that the applicant/Licence holder will be informed of any right of appeal (if the decision is one of refusal).
10. When the first application has been dealt with, the applicant will leave the meeting and the Sub-Committee will then deal with the second and subsequent applications in the same way.

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