

AGENDA

Regulatory Sub Committee

Date: **Wednesday 12 October 2011**

Time: **3.00 pm**

Place: **The Council Chamber, Brockington, 35 Hafod Road,
Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

Ricky Clarke, Democratic Services Officer

Tel: 01432 261885

Email: rclarke@herefordshire.gov.uk

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

Agenda for the Meeting of the Regulatory Sub Committee

Membership

Councillor JW Hope MBE
Councillor C Nicholls
Councillor GA Powell

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

AGENDA

	Pages
1. ELECTION OF CHAIRMAN To elect a Chairman for the hearing.	
2. APOLOGIES FOR ABSENCE To receive apologies for absence.	
3. NAMED SUBSTITUTES (IF ANY) To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
4. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
5. NOTIFICATION OF A TEMPORARY EVENT NOTICE 'THE HOP POLE, BROMYARD, HEREFORDSHIRE.' To consider the notification of a Temporary Event Notice in respect of 'The Hop Pole, 9 The Square, Bromyard, HR7 4BP and the issue of an objection notice given by the Chief Officer of Police for West Mercia.	1 - 10

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- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

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- The nearest bus stop to Brockington is located in Vineyard Road near to its junction with Old Eign Hill. The return journey can be made from the same bus stop.

HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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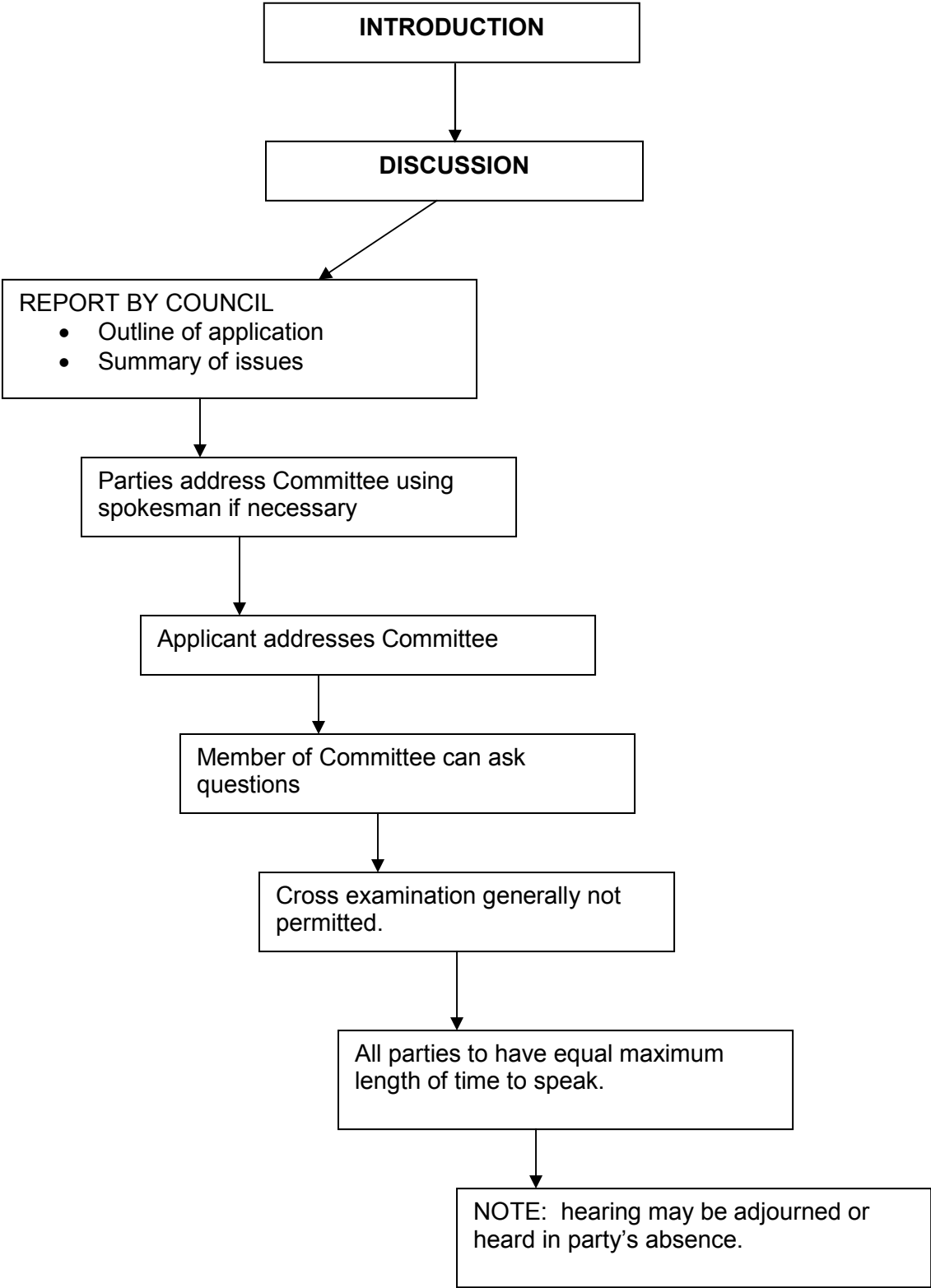
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY SUB-COMMITTEE
DATE:	11 OCTOBER 2011
TITLE OF REPORT:	NOTIFICATION OF TEMPORARY EVENT NOTICE IN RESPECT OF THE HOP POLE, 9 THE SQUARE, BROMYARD, HR7 4BP AND THE ISSUE OF AN OBJECTION NOTICE GIVEN BY THE CHIEF OFFICER OF POLICE FOR WEST MERCIA.' - LICENSING ACT 2003
PORTFOLIO AREA:	HEALTH & WELLBEING SERVICE

CLASSIFICATION: Open

Wards Affected

Bromyard

Purpose

To consider the notification of a Temporary Event Notice in respect of 'The Hop Pole, 9 The Square, Bromyard, HR7 4BP and the issue of an objection notice given by the Chief Officer of Police for West Mercia.

Key Decision

This is not a Key Decision.

Recommendation

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

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

Key Points Summary

- Objection Notice issued by West Mercia Police

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

Options

There are two options available to the committee:

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

Reasons for Recommendations

Ensures compliance with the Licensing Act 2003.

Introduction and Background

Background Information

Applicant	Russell Stevens Meriden House, 6 Great Cornbow, Halesowen, West Midlands, B63 3AB.	
Solicitor	Nil	
Type of application: TENS Notification	Date received: 22/09/11	48 hour period concluded 26/09/11

TEN Notification

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

Summary of Notification

The licensable activity notified is: -
Sale by retail of alcohol

Thursday 27th October 2011 & Sunday 30th October 2011
between 10:30 – 01:00

Details of Event

The application states 'Private function for hotel residents and invited non resident guests'. No other details are provided.

Summary of Representations

The relevant Chief Officer of Police has already made a written objection on 6th October 2011 on the grounds that the temporary event would undermine the Crime Prevention Objective.

Full details can be found within the background papers. In brief they state 'The premises have been subject to a wide range of complaints of nuisance and disorder in or near its location'.

Previous Application

The Committee will recall that a similar application was made previously by Mr Stevens which came before this committee 4th October. The application was identical other than the terminal hour applied for was 02:00 hours. In that matter the committee issued a 'counter notice'.

Key Considerations

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

Community Impact

The granting or refusing of the Notification may have a serious impact on the Community.

Legal Implications

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

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

In this case it was summed up that: -

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

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

Consultees

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

Appendices

Copy of TEN notification
Police Objection Notice

Background Papers

Background papers were available for inspection in the Council Chamber 30 minutes before the start of the hearing.

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Territorial Policing Unit – Herefordshire
Hereford Police Licensing Department
Hereford Police Station
Bath Street
Hereford. HR1 2HT



0300 333 3000 ext 4702

Direct Dial: 01432 347102

e-mail herefordandworcesterlicensing@westmercia.pnn.police.uk

06 October 2011

Our Ref:
Your Ref:

**Herefordshire District Council
Licensing Department
PO Box 233
Council Offices
Bath Street
HEREFORD HR1 2ZF**

Copy sent to applicant Russell Stevens by e-mail and recorded delivery

Dear Sir/Madam

REF: Temporary event application – Hop Pole Hotel, Market Square, Bromyard

I refer to the above application made pursuant of the Licensing Act 2003.

Date of event – 27-30 October 2011

Application received – 04 October 2011 (electronically)

This is a second application by the same applicant for the same location, with the same dates with a minor reduction in the hours requested. The first application, was subject to a police objection notice, which resulted in a Herefordshire Council Licensing Regulatory Sub-Committee hearing on 04 October 2011. The result of this hearing was that a counter notice was issued by the 'committee' and the event request was NOT allowed.

West Mercia Police **object to this new application** on the grounds to allow the event to take place would impact on the licensing objectives and in particular that of the prevention of crime and disorder. It is the belief of West Mercia Police that to allow this event to take place would impact on public safety with the potential of disorder occurring.

This premises is located at a small market town, its location is such that it is in a prominent position in an area known as the Market Square. There are no external licensed areas at the premises and its location is surrounded by roads, and a mixture of residential and commercial premises.

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The premises have been subject to a wide range of complaints of nuisance and disorder in or near its location. These complaints also include issues of non compliance of the premises licence through the provision of alcohol and the undertaking of regulated entertainment after licensed hours.

Previously the premises have been subject to a review application (2009) due to the level of issues that were being reported. This application was granted and additional conditions were applied to the premises licence. At the time of this application the premises was under the management and control of a brewery and the current owner and designated premises supervisor was not involved in the premises.

The premises was closed for a period of time in 2009 and 2010 and re opened in 2010 when the premises licence and management transferred to a limited company believed to be run by designated premises supervisor Russell Stevens.

It is the view of West Mercia Police that Mr Stevens has limited management and control on a day to day basis of the premises.

Since September 2010 a total of 17 reports have been made to West Mercia Police with regards to non compliance of licence conditions (that is a crime matter) and crime and disorder. It is believed that between late 2009 and late 2010 the premises were closed.

The majority of these incidents and complaints have occurred late at night and at weekends. To assist I can itemise the incidents in date order as reported to West Mercia Police.

DATE	TIME	INFORMATION	RESULT
28/08/11	2309	Local resident reporting disorder and nuisance from customers leaving the premises	Officers attended – no disorder at the time, numbers in the street who appeared drunk and were ‘playing up’ to police presence Crime issue
12/08/11	0200	Local resident reporting excessive music from premises – further call received at 0300 to say noise was horrendous	Officers attended – music coming from premises – breach of licence condition Crime issue
25/06/11	0029	Local resident reporting disorder and fighting outside the premises with the ‘landlord’ intervening attempting to stop issues	Officers attended – premises closed on police arrival, staff spoken to appears a dispute with a customer regarding taking a glass outside
30/05/11	0206	Local resident reporting disorder outside the premises	Officers attended – all quiet on arrival – premises closed Crime issue
29/05/11	0109	Local residents reporting disorder outside of premises with bottles being thrown	Officers attended – BH extension in use – door supervisors at premises – number of rowdy males at location moved on and warned by police Crime issue
24/05/11		Local resident complaining via Bromyard Town Council – that	Matter referred to Local Policing Team

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		the level of disorder and nuisance at the premises at weekends has caused her family to move out in order to get some rest	Crime issue Nuisance
21/04/11		Local resident attended Bromyard Police Station to complain about disorder and anti social behaviour at premises – especially at weekends	Matter referred to Local Policing Team Crime issue Nuisance
17/04/11	0330	Local resident complaining that premises was still open and that the music was excessive	Officers attended – music and customers at premises still drinking - premises still open – non compliance of licence Crime issue
16/04/11	0445	Local resident complaining of excessive music from premises	Officers attended – music still playing – group of about 20 in upstairs function room – all guests – alcohol seen. Officers advised to turn the music off. Non compliance of premises licence Crime issue
16/04/11	0230	Local resident complaining of excessive music at premises	Officers attended – music playing – large group in upstairs room drinking and playing music. Non compliance of premises licence Crime issue
15/04/11	2315	Local resident reporting disorder outside premises	Officers attended – established two males had argued inside premises and then went outside where they scuffled with each other. Allegation of assault made by one. Crime issue
05/02/11		Local resident attend Bromyard Police Station to complain about levels of disorder and nuisance at the premises – especially at weekends	Matter referred to Local Policing Team Crime issue
05/02/11	0350	Staff reporting disorder outside the premises	Officers attended – one male arrested for drunkenness outside the premises. Premises was closed to customers, however about 8 people were inside drinking, some were staff, management and guests. At the time of police attendance two fell out with each other – one using homophobic insults and being overly aggressive. Male believed to have some part ownership of the premises. Parties given strong warnings to behave

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			Crime issue
29/01/11	0012	Local resident complaining that customers were smoking and drinking at the front of the premises and therefore causing excessive noise	No police attendance – matter referred to Environmental Health
31/12/10	2209	Local resident reporting disorder at the premises	Police attendance – drunken male detained and issued with a disorder fixed penalty notice Crime issue
26/12/10	1940	Staff reporting 3 males had been disorderly and were refusing to leave. Males left after making threats	No police attendance Crime issue
12/09/10	0121	Local resident reporting disorder in the premises that had spilled into the street	Police attendance – premises is currently not open and operating – with a ‘caretaker’ staying on the premises. It appears a number of friends of the ‘caretaker’ had been invited to stay for the weekend and they and locals had been drinking in the premises – a number fell out with each other and disorder occurred Crime issue

As you will see a number of the issues that have been reported were retrospectively - the ‘morning after’ the issues occurred. These matters were referred to the Local Policing Team, who did follow up reassurance visits to the local residents and businesses.

The level of incidents that occurred in September 2010 resulted in a visit to the premises by myself as the Police Licensing Officer. Arrangements were attempted to meet Mr Stevens but this did not happen as he was out of the country. A male purporting to be an assistant manager was spoken to, it was established he did not hold a personal licence issued under the Licensing Act 2003. It was further established that Mr Stevens rarely attended the premises and basically left him and the other staff in charge to run the premises. The view given was that the premise was being promoted as a ‘hen and stag’ venue to stay at in the county. This visit was followed up with a warning letter to Mr Stevens.

The view of the local residents is that the premises is impacting on their quality of life due to the level of disorder and nuisance that is occurring, there is however a reluctance to put this in writing as they are fearful of reprisals as it is likely due to the numbers involved, they would be identified. Police reassurance patrol is still being provided in the vicinity of the premises at weekends. However the nature of policing in this area is that in the event of reports being received, attendance will be from other parts of the county if reported after midnight.

At the hearing on 04 October 2011, Mr Stevens’ made submissions that initially when he took over the property, he was not ‘very hands on’, he further stated however that he was now deeply involved in the running of the premises and was trying to promote it with weekend deals as a hotel. He additionally stated that he allowed his guests the free use of upstairs function type rooms. Mr Stevens also indicated that whilst he was aware of incidents outside his premises, he felt that they could not all be down to his customers. However he did not indicate any action he had taken to prevent or reduce incidents occurring at the end of the night.

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Additionally at the hearing evidence was presented to the committee from the internet 'Face Book' pages for the premises which indicated that they were opening early – prior to licensed hours to show the rugby World Cup. On one date in particular the 'Face Book' entry indicated the sale of alcohol prior to the commencement of licensed hours. Mr Stevens denied making the entry and that he had 'someone' who did it for him. It is the view of West Mercia Police that this attitude and lack of preventative approach does not promote the licensing objective of the prevention of crime and disorder.

West Mercia Police are of a view that to allow this temporary event would undermine the licensing objectives due to the level of reported issues, the lack of management and control of the premises by both the premises licence holder and the designated premises supervisor, and lastly a potential that crime through disorder and public nuisance would occur.

Yours faithfully

J MOONEY
Police Licensing Officer

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