

# AGENDA

## Regulatory Sub Committee

Date: **Thursday 12 April 2012**

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Time: **10.00 am**

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Place: **Meeting Room 18a, Brockington, 35 Hafod Road,  
Hereford**

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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](mailto:rclarke@herefordshire.gov.uk)

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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](mailto:rclarke@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Regulatory Sub Committee

## Membership

Councillor JW Hope MBE  
Councillor FM Norman  
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**

	<b>Pages</b>
<b>1. ELECTION OF CHAIRMAN</b> To elect a Chairman for the hearing.	
<b>2. APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
<b>3. NAMED SUBSTITUTES (IF ANY)</b> To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
<b>4. DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
<b>5. APPLICATION FOR AN EXPEDITED REVIEW 'THE GOLDEN FLEECE, 1 ST. OWEN'S STREET, HEREFORD HR1 2JB.'</b> To consider an application for an expedited review of the premises licence relating to The Golden Fleece, 1 St. Owen's Street, Hereford, HR1 2JB.	1 - 4
<b>Background Papers - The Golden Fleece - Application Form</b>	5 - 10



## **The Public's Rights to Information and Attendance at Meetings**

### **YOU HAVE A RIGHT TO: -**

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

### **Public Transport Links**

- Public transport access can be gained to Brockington via the service runs approximately every 20 minutes from the City bus station at the Tesco store in Bewell Street (next to the roundabout junction of Blueschool Street / Victoria Street / Edgar Street).
- The nearest bus stop to Brockington is located in 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.**

### **FIRE AND EMERGENCY EVACUATION PROCEDURE**

In the event of a fire or emergency the alarm bell will ring continuously.

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

You should then proceed to Assembly Point A which is located in the circular car park at the front of the building. A check will be undertaken to ensure that those recorded as present have vacated the building following which further instructions will be given.

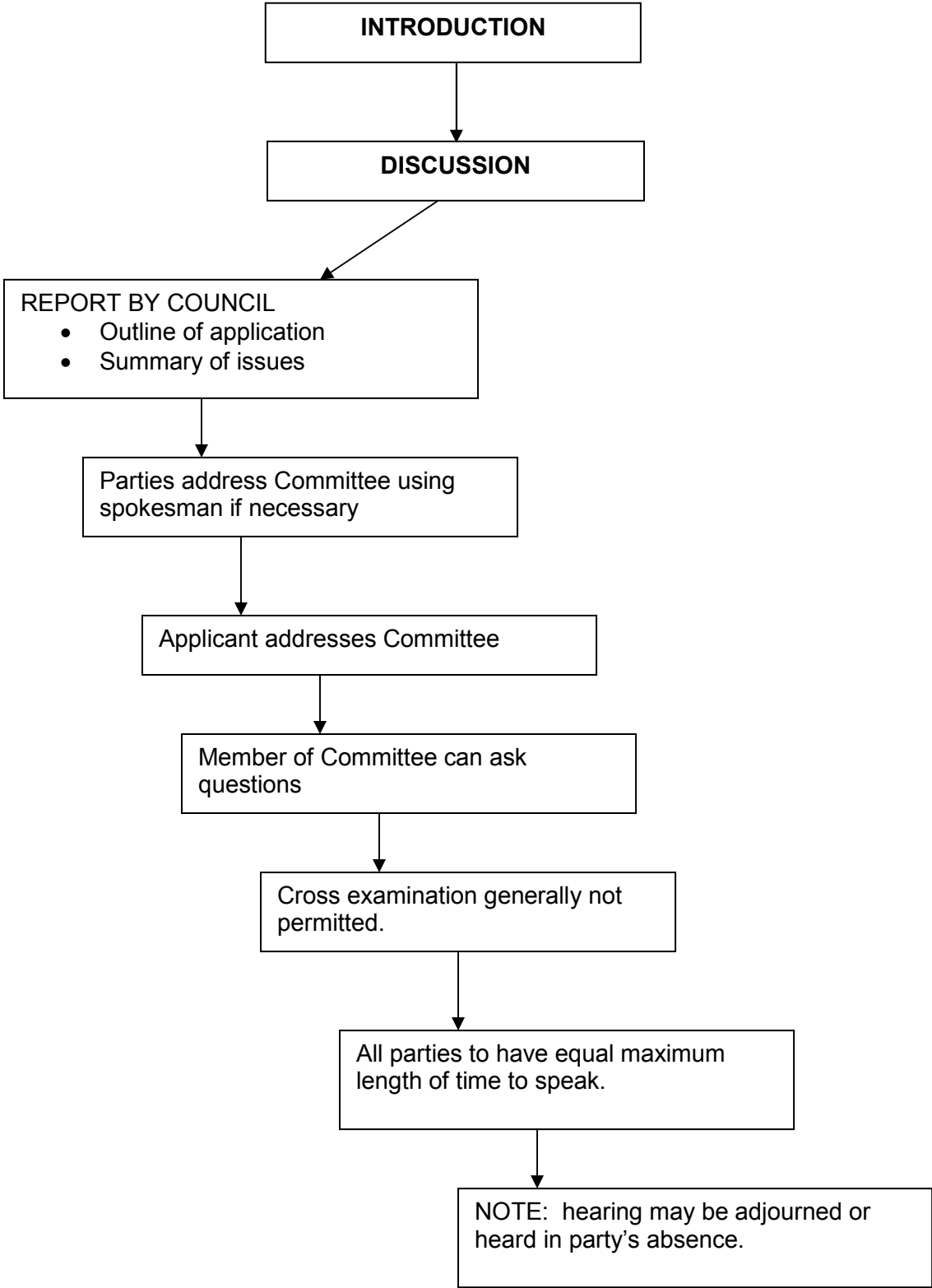
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Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.



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# LICENCING HEARING FLOW CHART







<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>12 APRIL 2012</b>
<b>TITLE OF REPORT:</b>	<b>EXPEDITED/SUMMARY LICENCE REVIEW OF PREMISES LICENCE: THE GOLDEN FLEECE, 1 ST. OWENS STREET, HEREFORD, HR1 2JB – LICENSING ACT 2003</b>
<b>PORTFOLIO AREA:</b>	<b>ASSISTANT DIRECTOR (EHTS) PUBLIC HEALTH DIRECTORATE</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Central

### **Purpose**

To consider an application for an '*expedited licence review*' of the premises licence relating to The Golden Fleece, 1 St. Owen Street, Hereford, HR1 2JB called by Adam Thomas, Superintendent of the West Mercia Constabulary and represented by Mr James Mooney, Police Licensing Officer.

### **Key Decision**

This is not a Key Decision.

### **Recommendation**

THAT Sub-Committee determine the interim steps necessary to prevent serious crime or serious disorder at the premises and to promote the licensing objectives in the overall interests of the local community. They should give appropriate weight to:

- The steps that are necessary to assist with the prevention of serious crime and disorder,
- The representations (including supporting information) presented by all parties,
- The Guidance issued to local authorities under Section 53A of the Licensing Act 2003 by the Violent Crime Reduction Act 2006, and
- The Herefordshire Council Licensing Policy.

### **Key Points Summary**

- Application received for an expedited review on 11 April 2012.
- Hearing arranged for 12 April 2012 within the required 48 hours.
- 11 April 2012 - Copies of application and certificate sent served on the premise licence holder by email and also sent to the responsible authorities.

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

## Options

The interim steps that the licensing authority can consider taking are:

1 Take no action or

Take any of the following steps: -

(a) to modify the conditions of the licence;

(b) the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;

(c) to remove the designated premises supervisor;

(d) to suspend the licence;

Where the authority takes a step mentioned in subsection (a) or (b), it may provide that the modification or exclusion is to have effect until the full review hearing.

## Reasons for Recommendations

2 Ensures compliance with the Licensing Act 2003 and the Crime & Disorder Act 2006.

## Background Information

The powers to call for an expedited review are contained in Section 53A of the 2003 Act by virtue of the Violent Crime Reduction Act 2006. The powers allow:

- i. The police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and
- ii. The licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.

Applicant	<b>Adam Thomas – Superintendent West Mercia Constabulary</b>	
	<b>Represented by: - James Mooney – Police Licensing Officer</b>	
Premise Licence Holder	<b>Marston's Plc</b> <b>Marston's House, Woverhampton, West Midlands, WV1 4JT</b>	
Solicitor	<b>Not known</b>	
Type of application: <b>Expedited Review</b>	Date received: <b>11/4/2012</b>	Interim Steps Hearing 48 hours <b>12/4/2012</b>

3 **Current Licence**

The current licence authorises the following licensable activities during the hours shown: -

An exhibition of a film, An indoor sporting event, A performance of live music, Any playing of recorded music, Provision of facilities for Making music & Dancing, Sale by retail of alcohol

Monday-Wednesday: 10:00 - 00:00

Thursday-Saturday: 10:00 - 00:30

Sunday: 12:00 - 23:00

Provision of late night refreshment

Monday-Sunday: 23:00 - 00:00

#### 4 **The Grounds for the Review**

The grounds for the review are contained in Appendix 1 and 2 of the background papers.

#### 5 **Responsible Authorities**

Copies of the application and certificate have been sent to the responsible authorities.

### **Key Considerations**

- 6 To consider what action should be taken, if any, to prevent further outbreaks of serious crime and disorder and to promote the four licensing objectives in accordance with the recommendation.

Guidance issued by the DCMS in respect of Expedited Reviews states at paragraph: -

- 3.5 If the licensing authority decides to take steps at the interim stage then:

The decision takes effect immediately, or as soon after then as the licensing authority directs; but

The licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who make the application.

- 3.6 The licensing authority in deciding when its decision on interim steps should take effect should consider the practical implication of compliance in relation to the premises.

- 3.7 In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to a premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw or modify those steps. The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring. In some circumstances, it might be better to seek suspension of the licence pending the full review, rather than imposing a range of costly conditions or permanent adjustments.

### **Community Impact**

- 7 It is felt that any action taken will have little if any effect on the community.

### **Legal Implications**

- 8 The premise licence holder may make representations against the interim steps taken by the licensing authority. There is not a time limit for the premises licence holder to make

representation on the interim steps, although this would be within the normal review period of 28 days. On receipt of representations and if they are not withdrawn, a hearing must be arranged within 48 hours of receipt.

## **Consultees**

- 9 Responsible authorities and the premise licence holder.
- 10 A copy of the application has been served on the responsible authorities.

## **Appendices**

- 11 a. Application Form for Expedited Review
- b. Certificate

## **Background Papers**

**Background papers are available for inspection in Room 18a, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.**

West Mercia Police  
Herefordshire Territorial Policing Unit  
Bath Street  
Hereford

**CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003**

I hereby certify that in my opinion the premises described below are associated with ~~serious crime / serious disorder / both serious crime and serious disorder~~<sup>1</sup>.

*Premises*<sup>2</sup>:  
Golden Fleece  
1 St Owen Street  
Hereford

Premises licence number (if known):

Name of premises supervisor (if known): Nathan DIMBYLOW

I am a Superintendent Adam Thomas <sup>3</sup> in the West Mercia police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because<sup>4</sup>:

The premises has been subject to a number of police interventions since the current premises supervisor has been in place. These interventions have come about as a result of a report of at least 14 incidents of disorder - including acts of violence - and nuisance.

A serious incident occurred during the afternoon of Friday 06 April 2012, which has resulted in significant injuries to a member of the public. The level of violence and seriousness of this latest incident is in the opinion of West Mercia Police such that this review process is required. The standard review process is deemed inappropriate due to the nature of this latest incident.

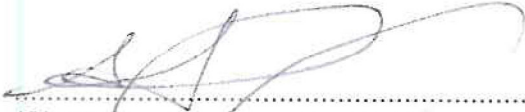
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<sup>1</sup> Delete as applicable.

<sup>2</sup> Include business name and address and any other relevant identifying details.

<sup>3</sup> Insert rank of officer giving the certificate, which must be superintendent or above.

<sup>4</sup> Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.



(Signed)

10/04/2012

(Date)

N/Sept 0573

## FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Herefordshire Council Licensing Authority

PO Box 233

Hereford. HR1 2ZF

**Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)**

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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 the 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.**

I James Mooney [on behalf of] the chief officer of police for the West Mercia police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

**1. Premises details:**

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Golden Fleece Public House  
1 St Owen Street,  
Hereford. HR1 2JB**

Post town: Hereford

Post code (if known): **HR1 2JB**

**2. Premises licence details:**

Name of premises licence holder (if known): Marstons Brewery

Number of premises licence holder (if known):

**3. Certificate under section 53A(1)(b) of the Licensing Act 2003** [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

**4. Details of association of the above premises with serious crime, serious disorder or both:**

[Please read guidance note 2]

**The premises is a city centre public house. Its customer base is mainly the older members of the community. The premises is a busy and popular day time and early evening venue.**

**Since May 2011 there has been a steady increase in reports of disorder and nuisance connected to the premises. Some of the incidents have occurred inside the premises and others by customers outside and in the vicinity.**

**The incidents increased from the middle of October 2011, with the police attending the area on a number of occasions in order to deal with crime and disorder connected with the premises. The majority of the incidents were of a minor nature and concerned in the main customers who had fallen out with each other or other people whilst they were strongly under the influence of alcohol. Due to the regularity of the incidents, on the 20 January 2012, the police Licensing Officer Mr Mooney attended the premises in order to discuss the concerns of the police with the designated premises supervisor (DPS) Nathan Dimbylow.**

**It was obvious from discussions that Mr Dimbylow was having difficulties in dealing with some of his customers as he indicated that there had been an increase in 'drunks' coming into the public house and he 'did not know what to do'. Suitable advice was given to Mr Dimbylow with a clear expectation that he would take all necessary steps to promote the licensing objectives and reduce the number of disorder incidents being reported.**

**In addition to this visit, additional police visits were arranged to the premises in order to give the staff and the customers reassurance. For a period of about 3 weeks no issues were reported, unfortunately after this period the incidents started again. These matters concerned the drunken behaviour of customers who were acting in a disorderly manner at or near the premises. Some of these matters have resulted in arrests for crime or disorder.**

**At about 1530hrs on Friday 06 April 2012, a serious assault took place at the premises, this matter is subject to a police investigation with two males currently on police bail.**

**Briefly the circumstances are that a male became involved in an argument with two men inside the premises, this resulted in some 'pushing and shoving' and the throwing of beer at each other. The dispute moved to the area immediately at the front of the premises, where one male was knocked to the ground causing significant life threatening injuries. At the time of this incident the premises was open with a number of customers. It is believed that the DPS Nathan Dimbylow was not in the public part of the premises at the time of this incident and that he was not working.**


**It is the view of West Mercia Police that this premises is connected with**



**serious crime and disorder due to the number of incidents that have occurred especially since Nathan Dimbylow took over as the DPS. The cumulative impact caused by the number of incidents that have occurred since mid 2011 have had a serious impact on the level of crime and disorder at or near this location.**

**The serious incident that occurred on 06 April 2012, indicates a significant flaw in the ability of the premises licence holder and the DPS to manage the premises in an effective and safe manner in order to promote the licensing objectives.**

**It is the view of West Mercia Police that this latest incident is a serious crime matter which can result in a prison custodial sentence of three years or more on first conviction**

Signature of applicant: 

Date: 11 April 2012

Capacity: Police Licensing Officer

**Contact details for matters concerning this application:**

Address:

**Hereford Police Station**

**Bath Street**

**Hereford. HR1 1HT**

Telephone number(s): 01432 347102

Email: james.mooney@westmercia.pnn.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or  
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.  
Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.