

AGENDA

Regulatory Sub Committee

Date: **Tuesday 4 September 2012**

Time: **2.00 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

Three Members of the Regulatory Committee

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. APPLICATION FOR A VARIATION TO THE LICENSED GAMING MACHINE PERMIT 'THE KING'S FEE, 49-53 COMMERCIAL ROAD, HEREFORD, HR1 2BJ.'	1 - 4
To consider an application for the variation of a Licensed Premises Gaming Machine Permit for 5 machines, in respect of 'The Kings Fee, 49-53 Commercial Road, Hereford HR1 2BJ.'	
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6. APPLICATION FOR A REVIEW OF THE PREMISES LICENCE 'GWALIA STORES, 27-29 BROAD STREET, ROSS-ON-WYE, HR9 7ED.'	19 - 24
To consider an application for a review of the premises licence relating to 'Gwalia Stores, 27 -29 Broad Street, Ross on Wye, HR9 7ED' called by Herefordshire Council as the Licensing Authority.	
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YOU HAVE A RIGHT TO: -

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- 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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- 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.

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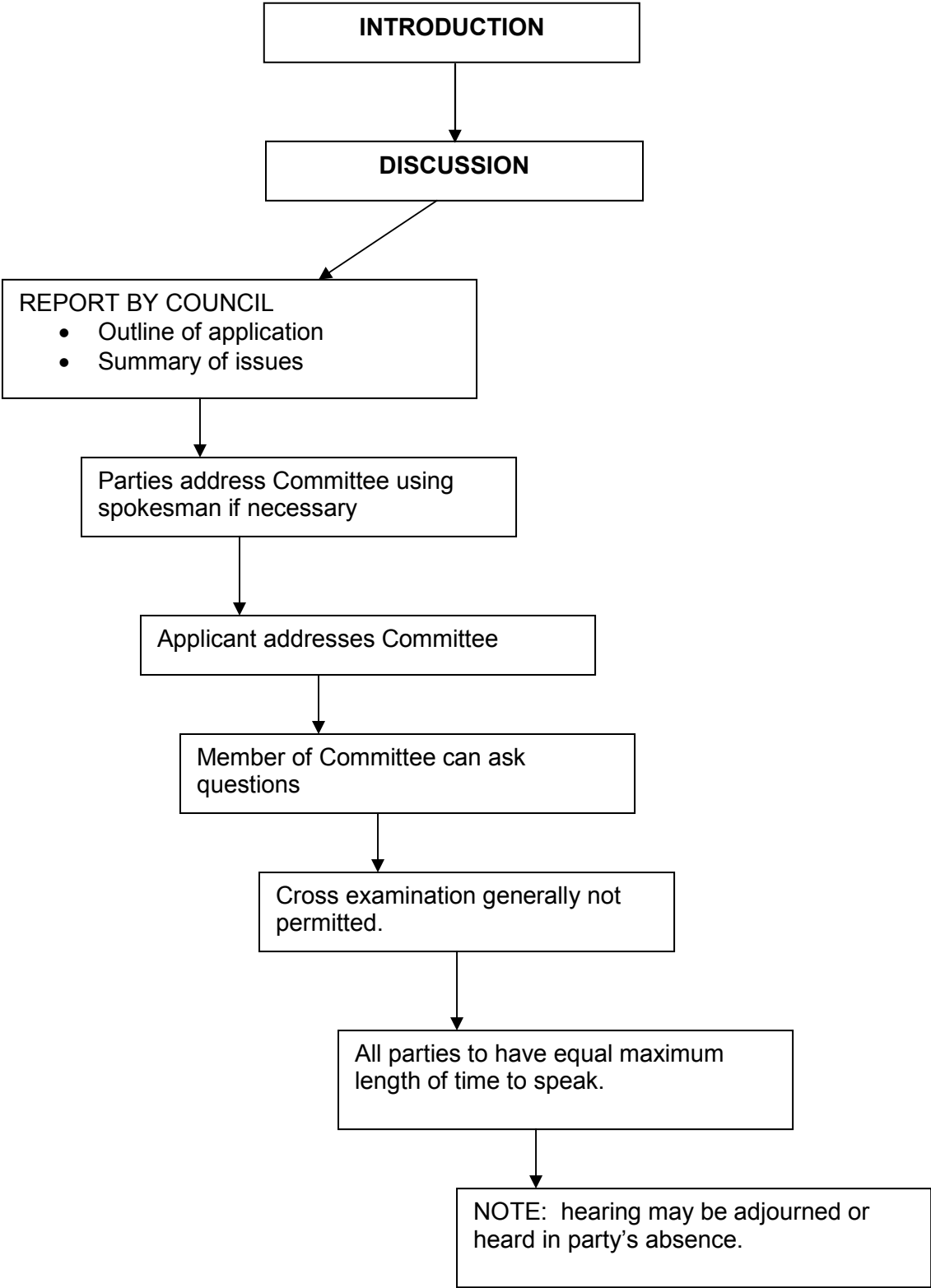
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY SUB-COMMITTEE
DATE:	4 SEPTEMBER 2012
TITLE OF REPORT:	APPLICATION FOR VARIATION OF A LICENSED PREMISES GAMING MACHINE PERMIT FOR 5 MACHINES IN RESPECT OF 'THE KINGS FEE, 49-53 COMMERCIAL ROAD, HEREFORD HR1 2BJ' – SECTION 283 GAMBLING ACT 2005
PORTFOLIO AREA:	People's Services

CLASSIFICATION: Open

Wards Affected

Hereford

Purpose

To consider an application for the variation of a Licensed Premises Gaming Machine Permit for 5 machines, in respect of 'The Kings Fee, 49-53 Commercial Road, Hereford HR1 2BJ.'

Key Decision

This is not a Key Decision.

Recommendation

THAT Sub-Committee determine the variation 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

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

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

Key Points Summary

- Application to increase to 5 machines an increase of 1
- 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	None
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 5 machines of Category C or D.
- 5 The premises licence holder has previously given notification of automatic entitlement in respect of 2 machines under Section 282 of the Gambling Act 2005.
- 6 To enable premises to have 5 machines a variation application has been made for an increase in machines from 4 to 5.

- 7 A plan of the proposed locations of the machines is attached within the background papers.
- 8 The applicant has requested an increase in numbers due to the current demand on the current 4 AWP machines.

Key Considerations

- 9 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

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

Legal Implications

- 11 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).

- 12 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

- a. Copy of application
- b. Plan of premises
- c. JD Weatherspoon – Policy and Procedure Overview.

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)**

EH & TS / LICENSING SECTION
RECEIVED
23 JUL 2012
TO:

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

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

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

01923477902

5. E-mail address of applicant

jodell@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 Kings Fee ...

2. Address of premises

49-53 Commercial Road, Hereford, HR1 2BJ

3. Telephone number of premises

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

5. Licensing Act 2003 Premises Licence Number

PR00452.....

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...	...5...
D
Total5...

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

JD Wetherspoon plc

.....

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 20/7/12

Signed by or on behalf of the applicant Jodell

Name (please print) FOR AND ON BEHALF OF JD WETHERSPOON PLC

* 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.

<u>Official Use Only</u>	
Date of receipt:	23.7.12
Signature and name of staff who received:	ACP
Date of receipt of fee:	23.7.12
Signature and name of staff who received fee:	Rtu
Application accepted / returned (please delete as appropriate)	
Date of premises licence (Licensing Act 2003) transfer (if applicable):	N/A



Licensed Premises Gaming Machine Permit

No: 25/2011

This licensed premises gaming machine permit authorises

JD Wetherspoon
PO Box 616
Watford
WD24 4QU

To make gaming machines, of the category and number specified below, available for use on the following premises

The Kings Fee
49-53 Commercial Road
Hereford
HR1 2BJ

Number of Category C or D gaming machines authorised by this permit

4

Date on which this permit takes effect: 17th June 2008

This permit is issued by
County of Herefordshire District Council,
Licensing Section,
PO Box 233
Bath Street,
Hereford
HR1 2ZF

People's Services Directorate

Director: Jo Davidson

Jennie O'Dell
Licensing Administrator
JD Wetherspoons PLC
PO Box 616
Watford
WD24 4QU

Your Ref:

Our Ref: ADP/AWP+223

Please ask for: Licensing Assistant

Direct Line / Extension: 01432 260105

Fax: 01432 383142

E-mail: licensing@herefordshire.gov.uk

02 August 2012

Dear Sir/Madam

**GAMBLING ACT 2005
APPLICATION FOR A VARIATION OF A LICENSED PREMISES GAMING MACHINE PERMIT
KINGS FEE, 49-53 COMMERCIAL ROAD, HEREFORD HR1 2BJ**

I am writing to acknowledge receipt of the application as detailed above, which was received by the Licensing Authority on 23rd July 2012.

The application will now be referred to Regulatory Committee in order to determine the variation in accordance with Herefordshire Council Policy.

To assist in this regard the following matters will need clarification: -

- The size of the premises – submit plan to include location of all machines
- How the machines are supervised
- As the premises is a licensed premises under the Licensing Act 2003 (public house) - whether the application for machines changes it from being a licensed premises to a gambling premises
- Need for additional machine(s) based on the current usage of the existing machines

Yours sincerely,



**ADY POOLE
LICENSING ASSISTANT
ENVIRONMENTAL HEALTH & TRADING STANDARDS**

Working in partnership for the people of Herefordshire

PO Box 233, Hereford, HR1 2ZF

Herefordshire Council

Main Switchboard (01432) 260000, www.herefordshire.gov.uk

NHS Herefordshire

Main Switchboard (01432) 344344, www.herefordshire.nhs.uk

Jennie O'Dell
Licensing Administrator
JD Wetherspoons PLC
PO Box 616
Watford
WD24 4QU

People's Services Directorate
Director: Jo Davidson

Your Ref:
Our Ref: ADP/AWP+223
Please ask for: Licensing Assistant
Direct Line / Extension: 01432 260105
Fax: 01432 383142
E-mail: licensing@herefordshire.gov.uk

02 August 2012

Dear Sir/Madam

**GAMBLING ACT 2005
APPLICATION FOR A VARIATION OF A LICENSED PREMISES GAMING MACHINE PERMIT
KINGS FEE, 49-53 COMMERCIAL ROAD, HEREFORD HR1 2BJ**

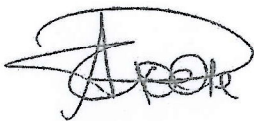
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- Need for additional machine(s) based on the current usage of the existing machines

Yours sincerely,



**ADY POOLE
LICENSING ASSISTANT
ENVIRONMENTAL HEALTH & TRADING STANDARDS**

Working in partnership for the people of Herefordshire

PO Box 233, Hereford, HR1 2ZF

Herefordshire Council

Main Switchboard (01432) 260000, www.herefordshire.gov.uk

NHS Herefordshire

Main Switchboard (01432) 344344, www.herefordshire.nhs.uk



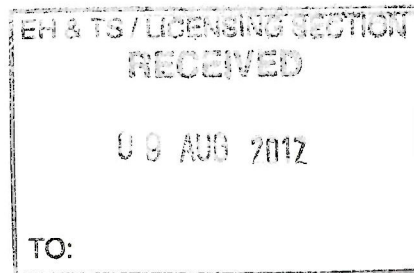
J D Wetherspoon plc, PO Box 616, Watford, WD24 4QU | Telephone: 01923 477777 | Fax: 01923 219810
www.jdwetherspoon.co.uk

Direct Line: 01923 477902
Direct Fax: 01923 219815

Our Ref: JO/1869

8th August 2012

Licensing Section
Herefordshire District Council
PO Box 233
Bath Street
Hereford
HR1 2ZF



Dear Sirs

The Kings Fee, 49-53 Commercial Road, Hereford, HR1 2BJ
Application for the Variation of a Licensed Premises Gaming Machine Permit

Further to your letter dated 2nd August 2012 in respect of the above application, please find enclosed the following information as requested:

- Copy of drawing number 9303/L01 Rev A showing the locations of the 4 existing AWP machines and proposed location of the 5th AWP machine.
- Copy of JDW's Policy and Procedure Overview for Licensed Premises Gaming Machines.
- We confirm the upgrade to 5 machines does not change the premises operation from licensed premises to gambling premises.
- The premises have requested to change a SWP machine with an additional AWP machine due to the demand of the current 4 AWP machines.

If you require any further information, please do not hesitate to contact me.

Yours faithfully

Jennie Odell

JO **Jennie Odell**
Licensing Administrator
JD Wetherspoon Plc



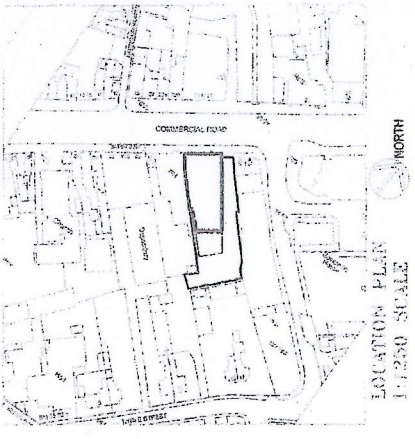
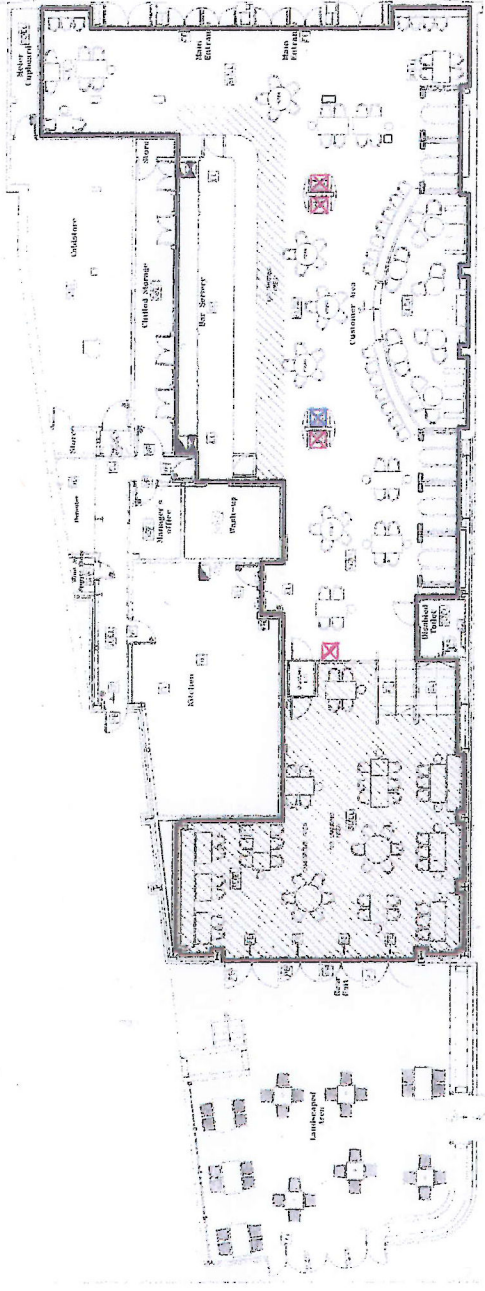
Age Aware Employer



Existing Amp Locations

Proposed 5th Amp Location (currently SWP machine)

- 1. All dimensions are in millimetres.
- 2. All dimensions are to the centre of lines.
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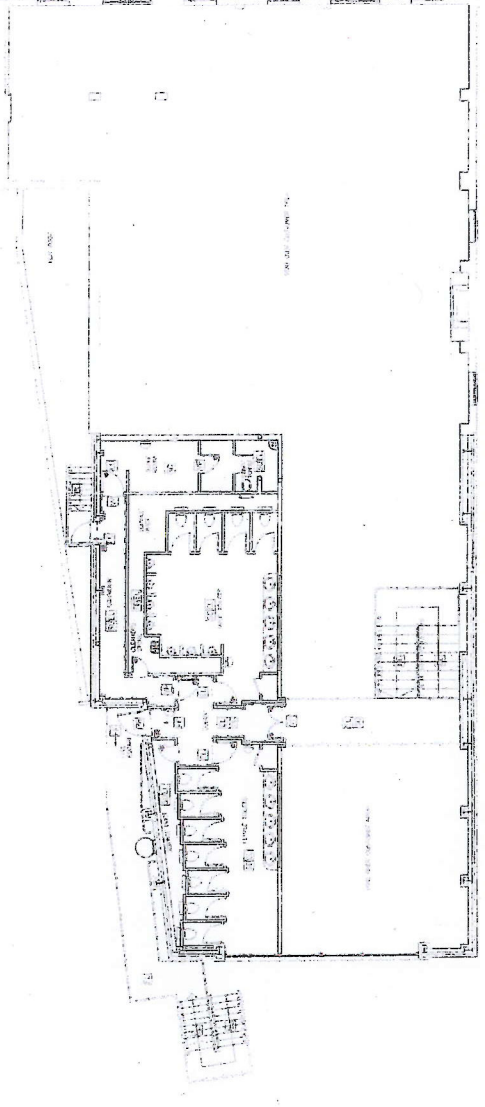
Submittal
15th December 2002

The Kings Foa
49-53 Commercial Road, Hereford.

Proposed Licence Drawing
Ground & First Floor Plans (As Proposed)

J.D. Waterspoon plc

15th December 2002 Do not scale this drawing. All dimensions to be checked on site.	
The Kings Foa 49-53 Commercial Road, Hereford. Proposed Licence Drawing Ground & First Floor Plans (As Proposed) J.D. Waterspoon plc	1:250 1:250 @ A1 Repeat and LO1 A



Licensed Premises Gaming Machines JD Wetherspoon Policy and Procedure Overview

We understand when considering this application that the Licensing Authority will consider the 3 objectives of the Gambling Act 2005 and therefore have set out below the policies and procedures JD Wetherspoon undertakes in its pubs to promote this objectives. In addition the Gambling Commission's "Gaming Machine Permits Code of Practice" is complied with.

1. Protecting children and other vulnerable people from being harmed or exploited by gambling;

To ensure that no persons under the age of 18 are permitted to play on our gaming machines, we abide by a Challenge 21 policy in all of our premises. Under this policy, all of our employees are trained to ask any customer who appears to be under the age of 21 years to provide valid proof of age that they are over the age of 18. When in use, Door Supervisors are also fully briefed on our policy and what is expected of them in the implementation of the same.

J D Wetherspoon has adopted the industry standards and the recommendations of the Gambling Commission and recognises only the following forms of identification as valid forms of proof of age:

- National passport
- Photographic Drivers' Licence
- United Kingdom 'PASS' accredited age identification card with photograph.

In certain circumstances, other forms of ID are accepted at the discretion of the manager on duty such as international ID cards or military ID cards.

We apply this policy not to all age restricted activities on our premises.

All employees receive induction training on our Challenge 21 policy when they commence employment with the Company and then receive regular refresher training. All employees complete video training, quizzes and sign a letter to confirm that they have had this training and understand their responsibilities. All training records are retained on personnel files and these files are regularly reviewed by the pub management team and members of our Retail Audit department to ensure that the training system is being satisfactorily completed.

Staff compliance with our Challenge 21 policy is tested by a number of means:

1. Management review of a 'refusals log' which records when and how often bar staff are recording when a sale has been refused.
2. Independent mystery visitors who are aged 18 and 19 years are sent into our pubs to test compliance with our Challenge 21 policy.

Our Challenge 21 policy is also actively promoted within the premises using self-adhesive signs at every entrance, staff wearing 'It's my job to ask' badges and posters throughout the premises.

All front of house staff are aware of their responsibility for preventing underage gambling.

All machines are situated in a place where their use can be supervised.

2. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime; and

The power to all gaming machines is turned off after the pub has closed to ensure potential thieves are not attracted by the lights in the pub.

JD Wetherspoon pubs also have two types of alarm systems, the panic alarm and intruder alarm, which cover the majority of the pub including the customer area where gaming machines are located.

The monitored intruder alarm covers the main entry points when the pub is closed. It is mainly activated by a forced entry into the pub triggering the door contacts or motion detectors. This pub is internally described as having a 'level 1 response' to its alarm system, meaning police response. This is an automated system which feeds through to Secom central station, our alarm consultants, who notify the police and the registered key holders of the pub.

JD Wetherspoon prides itself on provide safe, well run premises for all people to enjoy themselves in. Over our estate of 780 pubs we spend considerable time and resources ensuring they are all well equipped with adequate and appropriate CCTV coverage.

3. Ensuring that gambling is conducted in a fair and open way.

All of our AWP machines are located in well supervised areas fully open to the public at large and are provided by reputable companies.

**JD Wetherspoon PLC
September 2010**

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	4 SEPTEMBER 2012
TITLE OF REPORT:	REVIEW OF PREMISES LICENCE: GWALIA STORES, 27 -29 BROAD STREET, ROSS ON WYE, HR9 7ED – LICENSING ACT 2003
PORTFOLIO AREA:	PUBLIC HEALTH DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Ross on Wye West

Purpose

To consider an application for a review of the premises licence relating to 'Gwalia Stores, 27 -29 Broad Street, Ross on Wye, HR9 7ED' called by Herefordshire Council as the Licensing Authority.

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

- 3 previous Test Purchase Failures
- Called following a further underage sale.
- Three representations received from a responsible authorities.

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

Options

1 Take no action or

Take any of the following steps: -

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

Where the authority takes a step mentioned in subsection (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

Reasons for Recommendations

2 Ensures compliance with the Licensing Act 2003.

Introduction and Background

3 Background Information

Applicant	Herefordshire Council – Licensing Authority	
Premise Licence Holder	Ramanathan RATHEYAN Gwalia Stores, 27 – 29 Broad Street, Ross on Wye, HR9 7ED.	
Solicitor	N/K	
Type of application: Review	Date received: 18/07/12	28 Days consultation 14/08/12

4 Current Licence

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

Sale by retail of alcohol (off sales):

Monday – Saturday 10:00 – 20:00
Sunday 12:00 – 20:00

5 **Summary of Application**

The application for review relates to the following licensing objectives: -

- Prevention of Public Nuisance
- Protection of Children from harm

6 **The grounds for the review are: -**

The premises is an independent retail shop situated in Ross on Wye.

The request for this review is based on the licensing objectives regarding the prevention of crime and disorder and the protection of children from harm.

The premise has been the subject the subject of a test purchase operation which it failed.

7 **The information provided to support this application is: -**

During the evening of Wednesday 27th June Herefordshire Council trading standards department carried out a test purchase operation at the premise.

A 16 year old male was sold 4 cans of Fosters lager 4.0%

Police records show previous sales of alcohol at the premises on:

13/08/10 - 1920hrs

26/08/08 - 1930hrs

23/12/07 - 1415hrs

The premises licence holder and DPS has remained unchanged since the grant of the licensing 2006.

Herefordshire Council Licensing Policy states that any premises failing a test purchase will be reviewed.

Summary of Representations

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

9 **Responsible Authorities**

Representation have been received from West Mercia Police, Herefordshire Council Trading Standards and the Licensing Authority.

Key Considerations

10 To consider what action should be taken, if any, to promote the four licensing objectives in accordance with the recommendation.

Guidance issued under Section 182 of the Licensing Act 2003 in respect of Reviews states at paragraph: -

11.29 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- **for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;**
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale of smuggled tobacco and alcohol.

11.30 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Community Safety Partnership.

The attention of the Committee is drawn to the stated 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: -

“Among other things, section 4 of the 2003 Act provides that in carrying out its functions a licensing authority must have regard to guidance issued by the Secretary of State under section 182. The requirement is therefore binding on all licensing authorities to that extent. However, it is recognised that the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and so long as the Guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so. When doing so, licensing authorities will need to give full reasons for their actions. Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.”

Community Impact

11 It is felt that any decision made will have a minimal impact on the Community.

Legal Implications

12 Schedule 5 Section 8(2) gives a right of appeal to: -

- a) the applicant for the review,
- b) the holder of the premises licence, or
- c) any person who made relevant representation in relation to the application.

- 13 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

- 14 Responsible authorities and persons living or with a business interest within the vicinity of the premises.
- 15 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.
- 16 The notice of review was displayed on the premises prior to the start of the consultation period and was displayed for 28 days. In addition the notice was also displayed at the offices of the Licensing Unit at Bath Street, Hereford over the same period.

Appendices

- 17 a. Application Form for Review
- b. Police Representation
- c. Trading Standards Representation
- d. Licensing Authority Representation

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 review of a premises licence or club premises certificate
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.

We Herefordshire Council as the Licensing Authority.....

(Insert name of applicant)

apply for the review of a premises licence under Section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
Gwalia Stores 27-29 Broad Street	
Post town Ross on Wye	Post code (if known) HR9 7ED

Name of premises licence holder or club holding club premises certificate (if known)
Ramanathan RATHEYAN

Number of premises licence or club premises certificate (if known)
PR00096

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises

- d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

Fred Spriggs
Herefordshire Council as the Licensing Authority
Council Offices
Bath Street
Hereford

Telephone number (if any)

[REDACTED]

E-mail address (optional)

[REDACTED]

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

The premises is an independent retail shop situated in Ross on Wye.

The request for this review is based on the licensing objectives regarding the prevention of crime and disorder and the protection of children from harm.

The premise has been the subject the subject of a test purchase operation which it failed.

Please provide as much information as possible to support the application
(please read guidance note 2)

During the evening of Wednesday 27th June Herefordshire Council trading standards department carried out a test purchase operation at the premise.

A 16 year old male was sold 4 cans of Fosters lager 4.0%

Police records show previous sales of alcohol at the premises on:

13/08/10 - 1920hrs

26/08/08 - 1930hrs

23/12/07 - 1415hrs

The premises licence holder and DPS has remained unchanged since the grant of the licensing 2006.

Herefordshire Council Licensing Policy states that any premises failing a test purchase will be reviewed.

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

If you have made representations before relating to this premises please state what they were and when you made them

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- 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 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date 17th July 2012

Capacity Licensing Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Representation made by the Local Authority Dated 7 August 2012

I am an officer authorised under the Licensing Act 2003.

I refer to review application which I have submitted in respect of Gwalia Stores, Ross on Wye.

The premises is an independent retailer situated in the centre of Ross on Wye selling general grocery goods and alcohol.

The premises was the subject of a test purchase operation when it served a 16 year old youth without making an challenge.

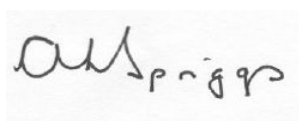
The review was launched on 17th July 2012 and a copy of the application and the notice were served on the premises.

It is therefore disappointing to note that at this time no contact has been made with the Licensing Authority by the premises licence holder Mr Ramanathan RATHEYAN. This is particularly alarming as records clearly indicate that this is the fourth test purchase failure in the past 5 years.

As no contact has been made by the holder of the licence I cannot be satisfied that this person has an intention to promote any of the licensing objectives and through the lack of contact would appear not to be taking the matter seriously. For this reason I request that the Licensing Committee consider **revocation** of the premises licence,

However if the committee were not minded to take this course of action then the very minimum that the Licensing Authority would like done to the licence in order to promote the licensing objectives is as follows:

- 1) Removal of the current designated premise supervisor.
- 2) That a personal licence holder shall be on the premises at all times alcohol is offered for sale.
- 3) All staff engaged in the sale of alcohol to be trained in Responsible alcohol retailing to the minimum standard of BIIAB level 1 or any equivalent training agreed by Herefordshire Council Trading Standards within 1 month of commencing employment at the premises. (Where there are existing staff this training shall be completed within 1 month of the date that this condition first appears on the licence).Retraining shall take place every 6 months. Training records shall be kept on the premises and produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.
- 4) A written register of refusals will be kept including a description of the people who have been unable to provide required Identification to prove their age. Such records shall be kept for a period of 12 months and will be collected on a daily basis by the Designated Premises Supervisor and produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.
- 5) The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of the Police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council. 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 counter advertising the scheme operated.



**Fred Spriggs
Licensing Officer**

From: Mooney,James [james.mooney@westmerciam.pnn.police.uk]
Sent: 24 July 2012 13:39
Subject: Gwalia Stores, 27-29 Broad Street, Ross on Wye - review application

NOT PROTECTIVELY MARKED

West Mercia Police are in receipt of a review application for **Gwalia Stores, Broad Street, Ross on Wye.**

This review application is submitted in the name of Herefordshire Council Licensing Authority and came about as a result of Herefordshire Council Trading Standards operation to check age verification standards with regards to the sale of age restricted goods and in particular the sale of alcohol to young people.

This operation took place on 27 June 2012, and resulted in an underage sale of alcohol to a young person.

This premise has been subject to a number of similar operations in the past. A number of these have resulted in sales of alcohol to underage young people on the following dates -

13/08/2010
26/08/2008
23/12/2007.

The premises licence holder and the specified designated premises supervisor for this shop is Ratheyam Ramanathan. He has been in this position of authority since 2006 and therefore was in place throughout the period when the test purchase failures took place.

It is a fact that the sale of alcohol to young people has a detrimental effect to their health and wellbeing. The need to ensure these sales do not take place is a mandatory condition on all premises licences issued under the Licensing Act 2003. It is the responsibility of licensed premises to actively promote the licensing objectives - and in particular those of the prevention of crime and disorder and the protection of children from harm.

It is the view of West Mercia Police that this premises has failed to comply with the conditions attached to the premises licence and therefore has not promoted the licensing objectives. It is the view of West Mercia Police that due to the history of the premises that the premises licence for this location should be revoked.

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

From: Hough, David
Sent: 07 August 2012 11:58
To: Licensing
Cc: Spriggs, Fred
Subject: Representation regarding Gwalia Stores Ross on Wye.

On 27/6/12 a sale of alcohol was made to a 16 year old child. The seller did not ask for any identification to determine the child's age before selling the alcohol. The store was displaying shelf edge markers showing both Challenge 21 and Challenge 25 policies in use and therefore it was unclear which policy was being used.

Herefordshire Council Trading Standards make the following representation regarding this matter and feel the following conditions and changes are made to the premises licence.

- 1) Removal of the current designated premise supervisor.
- 2) That a personal licence holder shall be on the premises at all times alcohol is offered for sale.
- 3) All staff engaged in the sale of alcohol to be trained in Responsible alcohol retailing to the minimum standard of BIIAB level 1 or any equivalent training agreed by Herefordshire Council Trading Standards within 1 month of commencing employment at the premises. (Where there are existing staff this training shall be completed within 1 month of the date that this condition first appears on the licence). Retraining shall take place every 6 months. Training records shall be kept on the premises and produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand
- 4) A written register of refusals will be kept including a description of the people who have been unable to provide required Identification to prove their age. Such records shall be kept for a period of 12 months and will be collected on a daily basis by the Designated Premises Supervisor and produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.
- 5) The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of the Police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council. 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 counter advertising the scheme operated.

Regards

David

David Hough
Team Manager
Business and Agricultural Support Team
Health and Well Being Services
Peoples Directorate
Herefordshire Council
PO Box 233
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HR1 2ZF
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