

AGENDA

Regulatory Sub Committee

Date: **Wednesday 5 June 2013**

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

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Agenda for the Meeting of the Regulatory Sub Committee

Membership

**Councillor BA Durkin
Councillor JW Hope MBE
Councillor Brig P Jones CBE**

AGENDA

		Pages
1.	ELECTION OF CHAIRMAN To elect a Chairman for the hearing.	5 - 8
2.	APOLOGIES FOR ABSENCE To receive apologies for absence.	
3.	NAMED SUBSTITUTES (IF ANY) To receive 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 AN EXPEDITED REVIEW 'LYDE COURT, LYDE CROSS, HEREFORD, HR1 3AE.' To consider an application for an Expedited/Summary licence review of the premises licence in respect of Lyde Court, Lyde Cross, Hereford, HR1 3AE.	9 - 20

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- 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.
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HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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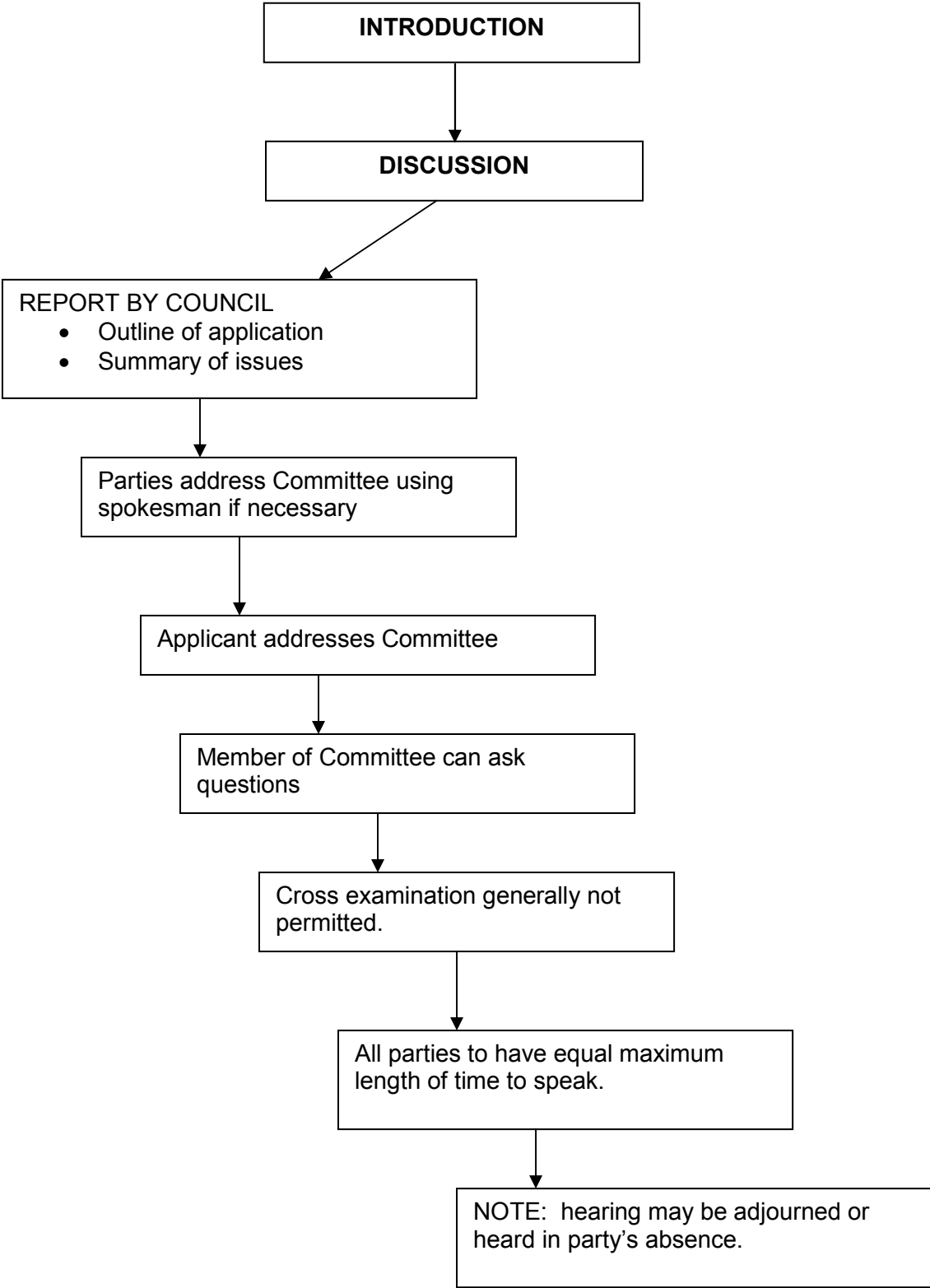
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY SUB-COMMITTEE
DATE:	5th June 2013
TITLE OF	TO CONSIDER AN APPLICATION FOR AN EXPEDITED/SUMMARY LICENCE REVIEW OF PREMISES LICENCE: LYDE COURT, LYDE CROSS, HEREFORD, HR1 3AE' – LICENSING ACT 2003.
REPORT BY:	FRED SPRIGGS – LICENSING OFFICER

1. Classification

Open

2. Key Decision

This is not a key decision

3. Wards Affected

Burghill, Holmer & Lyde

4. Purpose

To consider an application for an Expedited/Summary licence review of the premises licence in respect of Lyde Court, Lyde Cross, Hereford, HR1 3AE.

5. Recommendation(s)

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.

Further information on the subject of this report is available from
Clare Corfield, Licensing Manager 01432 26012

6. Key Points Summary

- Application received for an expedited review on 4 June 2013.
- Hearing arranged for 5 June 2013 within the required 48 hours.
- 4 June 2013 - Copies of application and certificate sent to the premises licence holder by email
- Premises Licence Holder advised of review and hearing over phone.

7. Options

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

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.

8. Reasons for Recommendations

8.1 Ensure compliance with the legislation.

9. Introduction and Background

Background Information

- 9.1 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	Ivan Powell – Superintendent West Mercia Constabulary Represented by: - James Mooney – Police Licensing Officer	
Premise Licence Holder	Karen Elizabeth Waring Lyde Court, Lyde Cross, Hereford, HR1 3AE	
Solicitor	Not known	
Type of application: Expedited Review	Date received: 04/06/2013	Interim Steps Hearing 48 hours 05/06/2013

Current Licence

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

Plays, Films, Performance of Dance
Monday-Sunday: 14:00 - 00:00

Any playing of recorded music, Live Music
Sunday – Thursday: 10:00 - 00:00
Friday & Saturday: 10:00 – 02:00

Sale/Supply of Alcohol
Sunday – Thursday: 09:00 – 00:00
Friday & Saturday: 08:00 – 02:00
24 hours for residents

Late Night Refreshment
Monday – Sunday: 23:00 – 02:00

9.3 **The Grounds for the Review**

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

9.4 **Responsible Authorities**

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

10. Key Considerations

10.1 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.

11. Community Impact

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

12. Equality and Human Rights

12.1 "A public authority must, in the exercise of its functions, have due regard to the need to –

- eliminate discrimination, harassment, victimisation and any other conduct ... prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it."

13. Financial Implications

13.1 There are unlikely to be any financial implications at this time to the authority.

14. Legal Implications

14.1 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.

15. Risk Management

15.1 Not applicable

16. Consultees

16.1 Responsible authorities and the premise licence holder.

A copy of the application has been served on the responsible authorities.

17. Appendices

- a. Police Application Form
- b. Certificate issued under Section 53A(1)(b)

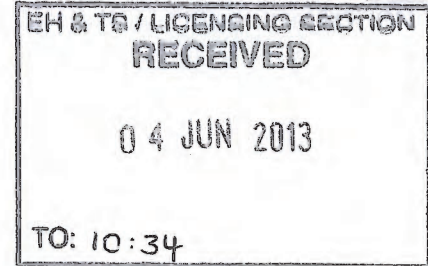
18. Background Papers

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

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

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

Herefordshire District 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)

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 for the West Mercia review of a premises licence under section 53A of the Licensing Act 2003.	[on behalf of] the chief officer of police police area apply for the
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1. Premises details:

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

Lyde Court
Lyde Cross
Nr Hereford

Post town: Hereford

Post code (if known): HR1 3AE

2. Premises licence details:

Name of premises licence holder (if known): Karen Elizabeth WARING

Number of premises licence holder (if known): PR01573

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]

This premises is in a rural location, and has been licensed since April 2013. The venue is licensed to sell alcohol up to 0200 at weekends

At about 3.41am on Sunday 02 June 2013, 4 calls were received from people at the premises with regards to serious disorder occurring at the venue. Two of the calls indicated in the region of 30 persons fighting and that bottles and glasses were being thrown.

One of the calls made by a family member of the premises licence holder. Officers in numbers attended the venue. They found in the region of 75 people at the location, some were seen with facial injuries and had the appearance of being involved in sort of disorder, a large number were very angry and many appeared drunk. The stance of the police is that large numbers were involved in the disorder and violence for a common purpose

From the calls received and what was found on police attendance, it was obvious that serious disorder had taken place. It was also apparent that the premises was still allowing alcohol to be sold and consumed on the premises in excess of one and half hours after the approved terminal operating hour.

It is the view of West Mercia Police that the premises licence holder had lost control of the event through the numbers involved in the disorder coupled with excessive alcohol consumption. Officers made requests to the premises licence holder to end the event and clear the premises. It is the view of the officers at the time, that she was reluctant to do this. She further stated that 'what could she do' if they did not comply.

This resulted in officers clearing the premises to ensure that no further disorder occurred at the venue.

Signature of applicant:



Date: 03/06/13
Capacity: Police Licensing Officer

Contact details for matters concerning this application:

Address:
Herefordshire Territorial Policing Unit
Hereford Police Station
Bath Street
Hereford.

Telephone number(s): 01432 347102

Email: herefordandworcesterlicensing@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.

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 disorder¹.

*Premises*²:
Lyde Court
Lyde Cross
Nr Hereford

Premises licence number (if known): PRO1573

Name of premises supervisor (if known): Karen Elizabeth WARING

I am a Superintendent Ivan Powell ³ 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, because⁴:

The level of serious disorder reported and the use of bottles and glasses as weapons.

At about 03.41am on Sunday 02 June 2013, numerous calls were received by West Mercia Police that disorder was occurring at Lyde Court. Some of the calls indicated up to 30 persons fighting and that bottles and glasses were being thrown.

A total of 13 police officers attended the venue to deal with the reports received

¹ Delete as applicable.

² Include business name and address and any other relevant identifying details.

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

⁴ 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.

It is the view of West Mercia Police that this licensed premises is associated with serious disorder due to the numbers involved, the volume of calls received, the nature of the information given to the police and their observations of what was presented to them on attending the incidents.

It is also the view of the police that the premises licence holder - who is also the designated premises supervisor had lost control of the venue and that she had failed to comply with the operating schedule for the venue with regards to the promotion of the licensing objectives.

West Mercia Police have considered other options available to them with regards to modifying the premises licence either through the standard review process or through negotiation with the premises licence holder. These options are deemed not appropriate as the current premises licence was issued in April 2013. Prior to the issuing of the premises licence, the venue was unlicensed and operated through temporary event notices. The majority of these notices were for classical music events. It appears since the issuing of the full premises licence, the venue is branching out in the type of events they run.

It is the view of West Mercia Police that the designated premises supervisor who is also the holder of the premises licence does not have the skills and experience to manage the venue effectively with regards to promoting the licensing objectives.

There is no requirement for the venue to notify the police with regards to what type of events are being run at the location. West Mercia Police do not feel this is necessary.

However they do feel that additional interim steps are required to promote the licensing objectives.

It is the view of West Mercia Police that the interim steps should be -

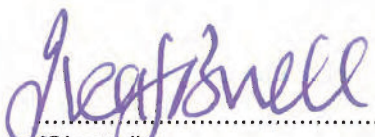
The removal of the designated premises supervisor from her position of authority.

A terminal hour as per the current premises licence - but to remove the provision allowing the supply of alcohol to residents

The employment of SIA registered door supervisors on a risk assessed basis.

The provision of shatterproof bottles/drinking vessels.

When making these submissions, West Mercia Police are mindful that they are interim steps and may require further consideration/consultation prior to any full review hearing.


(Signed)

03.06.13
(Date)

