

AGENDA

Regulatory Sub Committee

Date: **Friday 28 June 2013**

Time: **10.00 am**

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

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

For any further information please contact:

Ricky Clarke, Democratic Services Officer

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 CM Bartrum
Councillor JW Hope MBE
Councillor Brig P Jones CBE**

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 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. FULL REVIEW FOLLOWING AN EXPEDITED REVIEW 'LYDE COURT, LYDE CROSS, HEREFORD, HR1 3AE.' To consider the full review following an application for an expedited/summary licence review of the premises licence in respect of: Lyde Court, Lyde Cross, Hereford, HR1 3AE.	9 - 22

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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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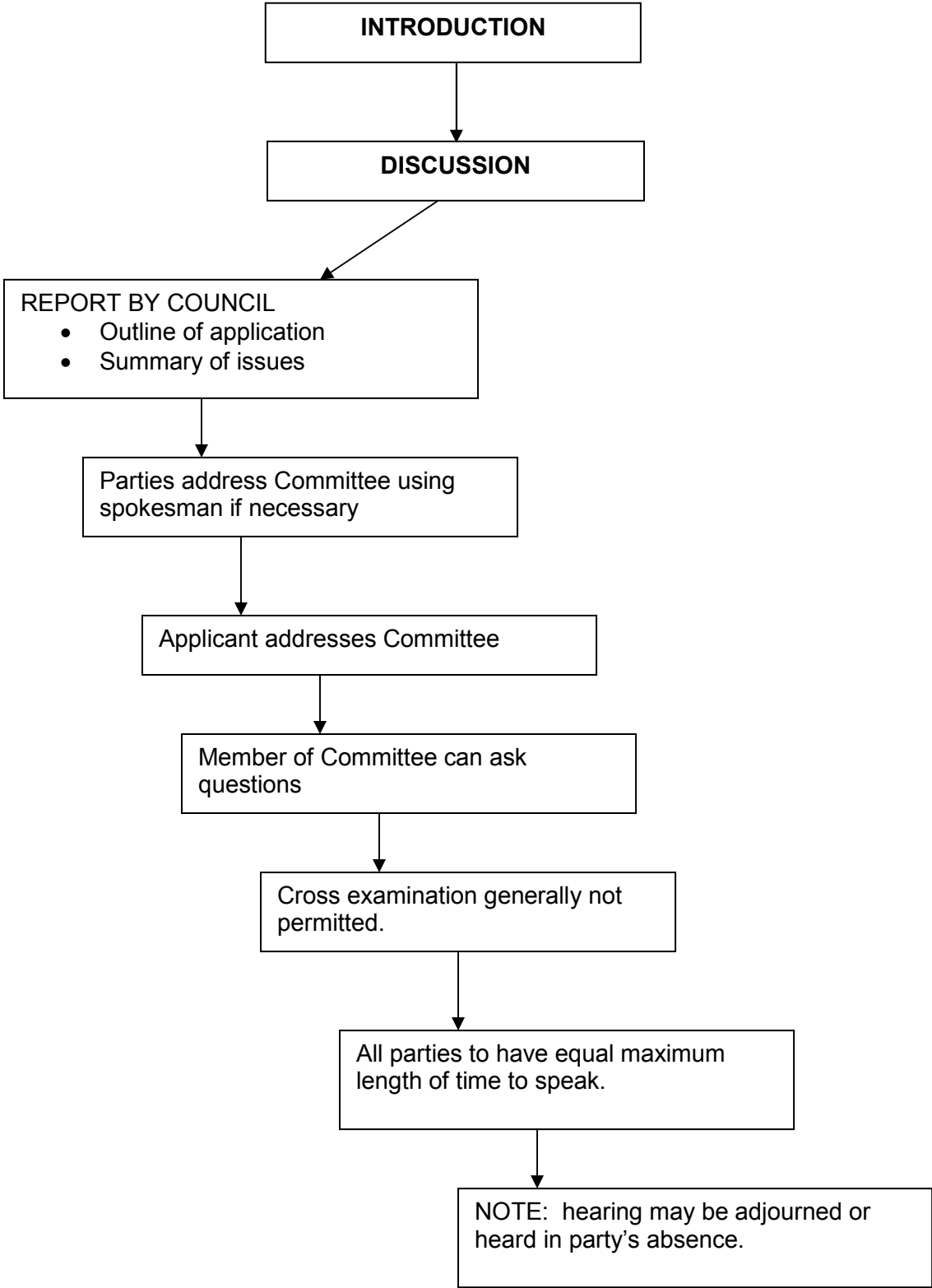
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY SUB-COMMITTEE
DATE:	28 June 2013
TITLE OF REPORT:	FULL REVIEW FOLLOWING AN APPLICATION FOR AN EXPEDITED/SUMMARY LICENCE REVIEW OF THE PREMISES LICENCE IN RESPECT OF: LYDE COURT, LYDE CROSS, HEREFORD, HR1 3AE' – LICENSING ACT 2003.
REPORT BY:	CLAIRE CORFIELD – LICENSING MANAGER

1. Classification

Open

2. Key Decision

This is not a key decision

3. Wards Affected

Burghill, Holmer & Lyde

4. Purpose

To consider the full review following 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 the Sub-Committee when determining this review must consider:

- what steps it considers necessary for the promotion of the licensing objectives; and
- what steps should be taken to secure the promotion of the licensing objectives including whether the interim steps should be made permanent.

6. Key Points Summary

- Application received for an expedited review on 4 June 2013.
- Hearing held on 5 June 2013 within the required 48 hours.
- Licence not suspended but interim steps put in place by way of conditions.

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

Note: Do not add page numbering

- Application against interim steps received on 13 June 2013.
- Hearing in relation to the interim steps held on 17 June 2013 within the required 48 hours
- Committee decided that the interim steps should remain until the full review.

7. Options

There are a number of option open to the committee:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- the removal of the designated premises supervisor from the licence;
- the suspension of the licence for a period not exceeding 3 months; and
- the revocation of the licence

8. Reasons for Recommendations

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

9. Background Information

The powers to call for an Expedited review are contained in Section 53A of the Licensing Act as amended by the Violent Crime Reduction Act 2006. The powers allow;

- 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
- The licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.

The expedited review hearing was held on 5th June 2013 where the committee considered an application made by the Chief Constable of the West Mercia Police. At that hearing the committee decided that the licence should not be suspended but that interim steps would be taken by attaching conditions to the licence. These were:

- That the Designated Premises Supervisor may remain until the full review hearing when a further decision will be made based on the evidence put before the Sub-Committee.
- That no alcohol be served to residents outside of the currently permitted licenced hours.
- That SIA registered door staff be employed on a risk assessed basis.
- That toughened or plastic vessels be used at all functions and that any drinks served in glass bottles be decanted into plastic/toughened vessels prior to serving.

On 17th June a further hearing took place as a result of Mrs Waring, the premises licence holder, making representation against the interim steps, particularly in relation to the last condition in relation to toughened vessels. The committee decided that that condition should remain pending the full review.

10. Current Licence

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

The grounds for the review are contained in Appendix 1 and 2 of the background papers. Also attached are the decision notices from the hearings of 5th June and 17th June (appendix 3 & 4)

11. Responsible Authorities

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

The police are expected to provide further evidence to support the grounds for calling of the expedited review.

No further representation has been received.

12. Key Considerations

The licensing authority must take into account any relevant representations made. Relevant representations are those that:

- relate to one or more of the licensing objectives;
- have not been withdrawn; and
- are made by the premises licence holder, a responsible authority or an interested party (who is not also a responsible authority).

13. Community Impact

It is felt that any decision is unlikely to have any effect on the local community.

14. Equality and Human Rights

"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."

15. Financial Implications

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

16. Legal Implications

An appeal may be made within 21 days of the licence holder being notified of the licensing authority's decision to a magistrates' court. An appeal may be made by the premises licence holder, the chief officer of police and/or any other person who made relevant representations.

The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the appeal is disposed of. Any interim steps taken will remain in force over these periods.

17. Risk Management

None identified

18. Consultees

Responsible authorities and the premise licence holder.

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

19. Appendices

- a. Police Application Form
- b. Certificate issued under Section 53A(1)(b)
- c. Decision Notice 5th July
- d. Decision Notice 17th July

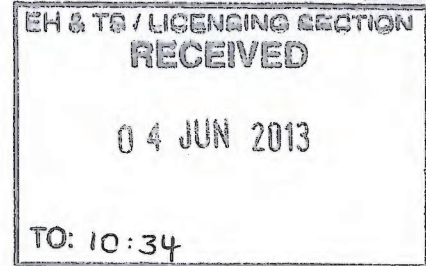
20. Background Papers

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)

HEREFORDSHIRE COUNCIL
**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)**

PREMISES	Lyde Court
PREMISES LICENCE HOLDER	Mrs Karen Waring
APPLICANT'S NAME	West Mercia Police
APPLICATION TYPE	Expedited Review
PANEL MEMBERS	Councillor JW Hope MBE (Chairman) Councillor BA Durkin Councillor Brig. P Jones CBE
DATE OF MEETING	5 June 2013

Members of the Licensing Panel of the Council's Regulatory Committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the Members heard from James Mooney, representing West Mercia Police and Mrs Waring, the Premises Licence Holder and Designated Premises Supervisor.

Having carefully considered those matters brought before them and in reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) and the Council's Licensing Policy. The Members made the following decisions in order to promote the licensing objective of the prevention of crime and disorder.

DECISION

- 1 That the Designated Premises Supervisor may remain until the full review hearing when a further decision will be made based on the evidence put before the Sub-Committee.
2. That no alcohol be served to residents outside of the currently permitted licenced hours.
3. That SIA registered door staff be employed on a risk assessed basis.
4. That toughened or plastic vessels be used at all functions and that any drinks served in glass bottles be decanted into plastic/toughened vessels prior to serving.

REASON

- 1 The Committee has found that there may have been serious disorder at the premises and has made its decision having heard evidence from West Mercia Police and in accordance with the guidance issued under Section 53A of the Licensing Act 2003 as amended. The Committee therefore decided that to promote the licensing objective of the prevention of crime and disorder the conditions detailed above should be added to the licence as an interim step.

HEREFORDSHIRE COUNCIL**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)****ADDITIONAL INFORMATION**

- 1 The Committee is required to review the premises licence in full within 28 days of the application for a summary licence review made on 4 June 2013.
- 2 The full review hearing has been set for 1 July 2013 at 10:00 am in the Council Chamber, Brockington, 35 Hafod Road, Hereford, HR1 1SH.
- 2 The Licensee may make representations to the licensing authority in respect of the interim steps at any stage prior to the review. These representations must be heard by Committee within 48 hours (When calculating the 48 hour period any non-working day will be disregarded).
- 3 There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.

HEREFORDSHIRE COUNCIL
**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)**

PREMISES	Lyde Court
PREMISES LICENCE HOLDER	Mrs Karen Waring
APPLICANT'S NAME	Mrs Karen Waring
APPLICATION TYPE	Representation against Interim Steps
PANEL MEMBERS	Councillor JW Hope MBE (Chairman) Councillor BA Durkin Councillor Brig. P Jones CBE
DATE OF MEETING	17 June 2013

Members of the Licensing Panel of the Council's Regulatory Committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the Members heard from Sergeant John Williams, representing West Mercia Police and Mrs Waring, the Premises Licence Holder and Designated Premises Supervisor.

Having carefully considered those matters brought before them and in reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) and the Council's Licensing Policy. The Members made the following decisions in order to promote the licensing objective of the prevention of crime and disorder.

DECISION

1. The decision of the Regulatory Sub-Committee is that the fourth paragraph of its decision made on 5 June 2013, that toughened or plastic vessels be used at all functions and that any drinks served in glass bottles be decanted into plastic/toughened vessels prior to serving, must stand.

REASON

1. This decision today has been made with reluctance. The Sub-Committee requested that evidence be put before it at the last hearing as to the events on 2 June 2013. This has not yet been made available. As a result the Sub-Committee has made a difficult decision in the face of two widely different versions of events. The Sub-Committee has applied the Licensing Act 2003 as amended, together with the Council's licensing policy. The safety and security of the public is essential and must be protected in this short, interim period.
2. The Sub-Committee's decision today in no way prejudices what the Sub-Committee's decision may be on 1 July. It will consider the matter on that date when all relevant evidence must be before it.

HEREFORDSHIRE COUNCIL**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)****ADDITIONAL INFORMATION**

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