

# AGENDA

## Regulatory Sub Committee

Date: **Tuesday 20 August 2013**

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Time: **2.00 pm**

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Place: **The Council Chamber, 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 CM Bartrum  
Councillor BA Durkin  
Councillor JW Hope MBE**

**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 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 A TEMPORARY EVENT NOTICE 'YEW TREE INN, PRESTON-ON-WYE, HEREFORD.'</b>	9 - 12
To consider an objection to a Temporary Event Notice (TEN).	
<b>Appendix A - Application Form</b>	13 - 18
<b>Appendix B - Public Protection Officer Representation</b>	19 - 20



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**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

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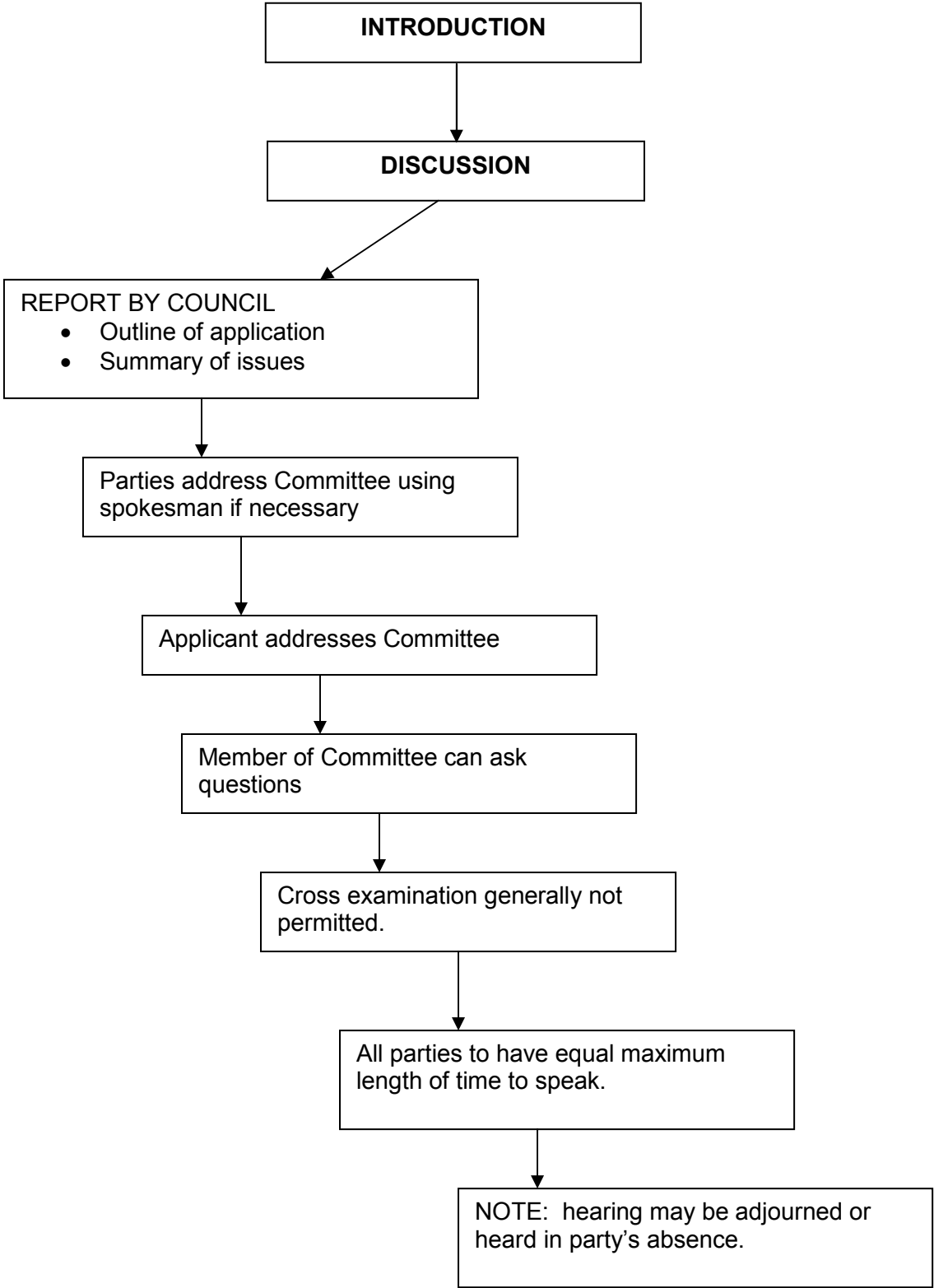
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# LICENCING HEARING FLOW CHART







<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>20 AUGUST 2013</b>
<b>TITLE OF REPORT:</b>	<b>APPLICATION FOR A TEMPORARY EVENT NOTICE (TEN) IN RESPECT OF THE 'YEW TREE INN, PRESTON ON WYE, HEREFORD.</b>
<b>REPORT BY:</b>	<b>LICENSING MANAGER</b>

### 1. Classification

Open

### 2. Key Decision

This is not an executive decision

### 3. Wards Affected

Golden Valley North

### 4. Purpose

To consider an objection to a Temporary Event Notice (TEN).

### 5. Recommendation(s)

THAT

The Sub-Committee determine the TEN 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 appropriate to promote the licensing objective of the prevention of public nuisance,
- The objection notice issued by the Public Protection Officer,
- The Guidance issued to local authorities under Section 182 of the Licensing Act 2003, and
- The Herefordshire Council Licensing Policy

### 6. Key Points Summary

- A temporary event notice was submitted by Mr Phillip Pugh of the Yew Tree Inn, Preston-on-Wye.

- The Public Protection Officer objected to the TEN.
- The matter is therefore brought before the sub-committee for determination.

## 7. Options

There are three options available to the sub-committee:

- Issue a 'counter notice' if it considers necessary for the prevention of public nuisance, or
- Refuse to issue a counter notice and not attach any conditions, thereby authorising the licensable activity and hours as notified in the TEN, or
- Refuse to issue a counter notice but attach conditions to the TEN. In effect this would authorise the licensable activities and hours as notified in the TEN providing the conditions were complied with.

## 8. Reasons for Recommendations

Ensure compliance with the legislation.

## 9. Introduction and Background

### Background Information

Applicant	<b>Mr Phillip Pugh</b> <b>Yew Tree Inn, Preston on Wye</b>	
Representative	<b>N/K</b>	
Type of application: <b>TENS Notification</b>	Date received: <b>08/08/2013</b>	72 hour period concluded <b>13/08/2013</b>

### TEN Notification

The notification of the Temporary Event Notice has received an objection from a relevant person, the Public Protection Officer. It therefore is now brought before the sub-committee to determine the notification. A copy of the TEN application is appended to this report.

### Summary of Notification

The licensable activity notified is: -

Sale by retail of alcohol (for consumption both on the Premises), Provision of regulated entertainment,

Between 1930 hours 24 August 2013 and 0000 on 24 August 2013

## **Details of Event**

Anniversary Party

### **Summary of representation**

The Public Protection Officer objects to the TEN due to previous complaints from more than one household regarding noise nuisance from live music and recorded music, and disturbance to nearby residents relating to noise from similar recent events.

### **Current Conditions attached to licence**

#### **Prevention of Crime:**

Staff are trained in the regulations governing the sale of alcohol and are authorised to exclude violent, drunken or abusive customers or those causing a public nuisance.

The provision of a last entry time of 23:30

#### **Public Safety:**

Emergency services numbers are displayed behind the bar for staff use. Staff are instructed in the actions to be taken in the event of an emergency. Basic first aid equipment is provided in the staff area. Seating is provided for 50 customers at all times. Drinks glasses are of strengthened glass and are not allowed to be taken off the premises. Free water is always available. The public part of the premises is centrally heated and there are two large electric air extractors. Level access is provided to the premises.

#### **Prevention of Public Nuisance:**

On site parking is provided for approximately 12 cars.

#### **Protection of Children:**

Staff are trained in the regulations relating to the age of customers on the premises including the Gaming Act 1968.

## **10. Key Considerations**

To consider what action should be taken, if any, to promote the licensing objective of the prevention of public nuisance in accordance with the recommendation.

The sub-committee has to consider the representation and decide whether to allow the temporary event notice or whether to issue a counter notice.

There is an option for the sub-committee to allow the TEN and to attach some or all of the conditions shown on the licence if they feel it will promote the licensing objectives.

## **11. Community Impact**

The granting of the notification as applied for may have an impact on the local community.

## **12. Equality and Human Rights**

None identified.

## **13. Financial Implications**

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

## **14. Legal Implications**

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

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

In this case it was summed up that: -

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

There is a right of appeal against the decision by either the person giving notification of the TEN or the relevant person. Such appeal must be made within 21 days of notification of the decision but not less than 5 working days before the event.

## **15. Risk Management**

15.1 No risks identified

## **16. Consultees**

16.1 West Mercia Police

Environmental Protection Team

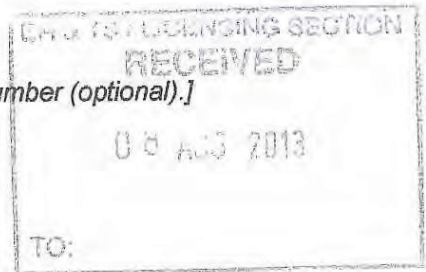
## **17. Appendices**

- a. Copy of TEN notification
- b. Copy of objection from Public Protection Officer

## **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.**

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



### Temporary Event Notice

Before completing this notice, please read the guidance notes at the end of the notice. If you are completing this notice by hand, please write legibly in block capitals. In all cases, ensure that your answers are inside the boxes and written in black ink or typed. Use additional sheets if necessary. You should keep a copy of the completed notice for your records. You must send at least one copy of this notice to the licensing authority and additional copies must be sent to the chief officer of police and the local authority exercising environmental health functions for the area in which the premises are situated. The licensing authority will give to you written acknowledgement of the receipt of the notice.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)	
1. Your name	
Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)
Surname	Pugh
Forenames	Phillip
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)	
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)
Surname	
Forenames	
3. Your date of birth	Day <span style="background-color: black; color: black;">XXXXXXXXXX</span>
4. Your place of birth	<span style="background-color: black; color: black;">XXXXXXXXXX</span>
5. National Insurance Number	<span style="background-color: black; color: black;">XXXXXXXXXX</span>
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)	
The Yew Tree Inn Preston-on-Wye Herefordshire HR29JT	
Post town Hereford	Postcode HR29JT
7. Other contact details	
Telephone numbers	
Daytime	01981500359
Evening (optional)	
Mobile (optional)	
Fax number (optional)	




E-Mail address (if available)	theyewtreepreston@hotmail.com
8. Alternative address for correspondence (If you complete the details below, we will use this address to correspond with you)	
Post town	Postcode
9. Alternative contact details (if applicable)	
Telephone numbers: Daytime	
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail address (if available)	

<b>2. The premises</b>	
Please give the address of the premises where you intend to carry on the licensable activities or, if it has no address, give a detailed description (including the Ordnance Survey references) (Please read note 2)	
The Yew Tree Inn, Preston-on-Wye	
Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.	
Premises licence number	PR00211
Club premises certificate number	
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)	
Please describe the nature of the premises below. (Please read note 4)	
Public House	
Please describe the nature of the event below. (Please read note 5)	

Anniversary Party

3. The licensable activities		
Please state the licensable activities that you intend to carry on at the premises (please tick all licensable activities you intend to carry on). (Please read note 6)		
The sale by retail of alcohol	<input checked="" type="checkbox"/>	
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	<input type="checkbox"/>	
The provision of regulated entertainment	<input checked="" type="checkbox"/>	
The provision of late night refreshment	<input type="checkbox"/>	
Are you giving a late temporary event notice? (Please read note 7)	<input type="checkbox"/>	
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 8)		
Saturday 24 <sup>th</sup> August		
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 9)		
19.30 – 12 midnight		
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 10)		
80		
If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please tick as appropriate). (Please read note 11)	On the premises only	<input checked="" type="checkbox"/>
	Off the premises only	<input type="checkbox"/>
	Both	<input type="checkbox"/>



4. Personal licence holders (Please read note 12)		
Do you currently hold a valid personal licence? (Please tick)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If "Yes" please provide the details of your personal licence below.		
Issuing licensing authority	Hereford	
Licence number		
Date of issue		
Date of expiry		
Any further relevant details		

5. Previous temporary event notices you have given (Please read note 13 and tick the boxes that apply to you)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the number of temporary event notices (including the number of late temporary event notices, if any) you have given for events in that same calendar year		
Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>


6. Associates and business colleagues (Please read note 14 and tick the boxes that apply to you)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year.		
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>



If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your business colleague(s) have given for events in the same calendar year.	1	
Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

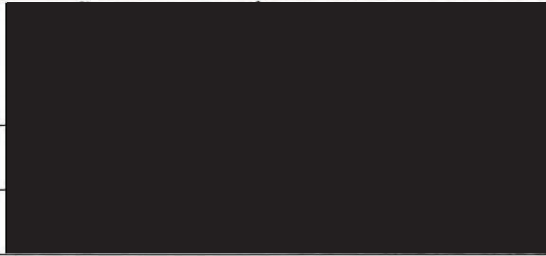
<b>7. Checklist (Please read note 15)</b>	
I have: (Please tick the appropriate boxes)	
Sent at least one copy of this notice to the licensing authority for the area in which the premises are situated	<input checked="" type="checkbox"/>
Sent a copy of this notice to the chief officer of police for the area in which the premises are situated	<input checked="" type="checkbox"/>
Sent a copy of this notice to the local authority exercising environmental health functions for the area in which the premises are situated	<input checked="" type="checkbox"/>
If the premises are situated in one or more licensing authority areas, sent at least one copy of this notice to each additional licensing authority	<input type="checkbox"/>
If the premises are situated in one or more police areas, sent a copy of this notice to each additional chief officer of police	<input type="checkbox"/>
If the premises are situated in one or more local authority areas, sent a copy of this notice to each additional local authority exercising environmental health functions	<input type="checkbox"/>
Made or enclosed payment of the fee for the application	<input checked="" type="checkbox"/>
Signed the declaration in Section 9 below	<input checked="" type="checkbox"/>

<b>8. Condition (Please read note 16)</b>
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

<b>9. Declarations (Please read note 17)</b>	
The information contained in this form is correct to the best of my knowledge and belief.	
I understand that it is an offence: (i) to knowingly or recklessly make a false statement in or in connection with this temporary event notice and that a person is liable on summary conviction for such an offence to a fine not exceeding level 5 on the standard scale; and (ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on summary conviction for any such offence to a fine not exceeding £20,000, or to imprisonment for a term not exceeding six months, or to both.	
Signature	
Date	24.07.13

Name of Person signing	Phillip Pugh
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For completion by the licensing authority

10. Acknowledgement (Please read note 18)	
I acknowledge receipt of this temporary event notice.	
Signature	
Date	
Name of Officer signing	

## MEMORANDUM

To : **Emma Bowell – LICENSING ASSISTANT**

From : **Richard Roberts**

Tel : **01432 261668** My Ref : **RRO/134733**

Date : **12 August 2013** Your Ref : **TEN7839**

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**YEW TREE INN, YEW TREE INN, PRESTON ON WYE, HEREFORDSHIRE, HR2 9JT**

Having assessed the TEN application at the above location, I would like to make the following comments:

- I object to the Ten due to previous complaints from more that one household regarding noise nuisance from live music and recorded music, and disturbance to nearby residents relating to noise from similar recent events.

**RICHARD ROBERTS  
PUBLIC PROTECTION OFFICER**

