

# AGENDA

## Regulatory Sub Committee

Date: **Thursday 12 November 2015**

---

Time: **11.00 am**

---

Place: **Committee Room 1, The Shire Hall, St Peter's Square,  
Hereford, HR1 2HX**

---

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

For any further information please contact:

**Clive Lloyd, Governance Services**

Tel: 01432 260249

Email: [clive.lloyd@herefordshire.gov.uk](mailto:clive.lloyd@herefordshire.gov.uk)

---

If you would like help to understand this document, or would like it in another format, please call Clive Lloyd, Governance Services on 01432 260249 or e-mail [clive.lloyd@herefordshire.gov.uk](mailto:clive.lloyd@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the Meeting of the Regulatory Sub Committee**

## **Membership**

**Councillor BA Durkin  
Councillor DW Greenow  
Councillor PJ McCaull**

**AGENDA**

	<b>Pages</b>
<b>1. ELECTION OF CHAIRMAN</b> To elect a Chairman for the hearing.	
<b>2. DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the agenda.	
<b>3. APPLICATION FOR THE VARIATION OF A PREMISES LICENCE IN RESPECT OF 'MUNCHIES, 59 COMMERCIAL ROAD, HEREFORD, HR1 1BD - LICENSING ACT 2003</b>  To consider an application for the variation of a premises licence in respect of 'Munchies, 59 Commercial Road, Hereford, HR1 1BD.	9 - 28
<b>4. REVIEW OF A PREMISES LICENCE IN RESPECT OF: CHAMPAGNE SIGNATURE, 14-15 UNION STREET, HEREFORD, HR1 2BT - LICENSING ACT 2003</b>  To consider an application for the Review of a Premises Licence in respect of Champagne Signature, 14-15 Union Street, Hereford, HR1 2BT.	29 - 40





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

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

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

### **RECORDING OF THIS MEETING**

Please note that filming, photography and recording of this meeting is permitted provided that it does not disrupt the business of the meeting.

Members of the public are advised that if you do not wish to be filmed or photographed you should let the governance services team know before the meeting starts so that anyone who intends filming or photographing the meeting can be made aware.

The reporting of meetings is subject to the law and it is the responsibility of those doing the reporting to ensure that they comply.

### **Public Transport Links**

There are bus stops directly outside the building. Hereford train station is a 15 minute walk, Hereford country bus station and Hereford city bus station are both a 5 minute walk from the Shirehall.

## **HEREFORDSHIRE COUNCIL**

**SHIRE HALL, ST PETERS SQUARE, HEREFORD HR1 2HX.**

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

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

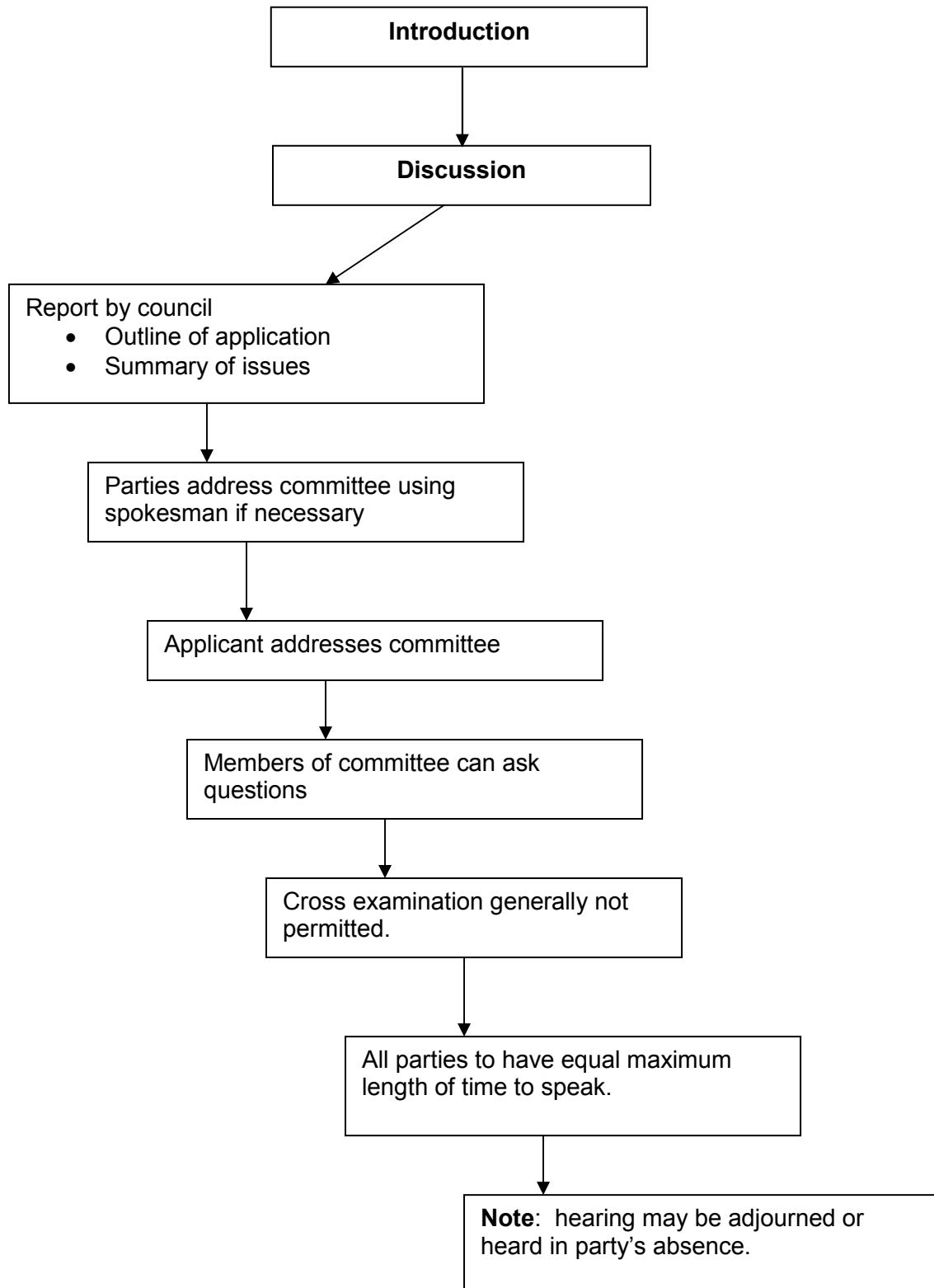
You should vacate the building in an orderly manner through the nearest available fire exit.

You should then proceed to the Fire Assembly Point which is located in the Shire Hall Side Car Park. A check will be undertaken to ensure that those recorded as present have vacated the building following which further instructions will be given.

Please do not allow any items of clothing, etc. to obstruct any of the exits.

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

## Licensing Hearing Flowchart







<b>Meeting:</b>	<b>Regulatory Sub-Committee</b>
<b>Meeting date:</b>	<b>12<sup>th</sup> November 2015</b>
<b>Title of report:</b>	<b>APPLICATION FOR THE VARIATION OF A PREMISES LICENCE IN RESPECT OF 'MUNCHIES, 59 COMMERCIAL ROAD, HEREFORD, HR1 1BD – LICENSING ACT 2003</b>
<b>Report by:</b>	<b>CLAIRE CORFIELD - LICENSING AND GYPSY TRAVELLER MANAGER</b>

### **Classification**

Open

### **Key Decision**

This is not an executive decision.

### **Wards Affected**

Central Ward

### **Purpose**

To consider an application for the variation of a premises licence in respect of 'Munchies, 59 Commercial Road, Hereford, HR1 1BD.

### **Recommendation**

**That:**

**The 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 appropriate 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 Statement of Licensing Policy 2015 - 2020.

## Options

1. There are a number of options open to the Sub-Committee:
  - a) Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003,
  - b) Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it appropriate for the promotion of the licensing objectives and add mandatory conditions set out in the Licensing Act 2003,
  - c) To exclude from the scope of the licence any of the licensable activities to which the application relates,
  - d) To refuse to specify a person in the licence as the premise supervisor, or
  - e) To reject the application.

## Reasons for Recommendations

2. Ensures compliance with the Licensing Act 2003.

## Key Considerations

3. **Licence Application**  
The application for a variation to the premises licence has received representation and is brought before the committee for determination.
4. The details of the application are:

Applicant	<b>Ardalan Ghafour</b> <b>59 Commercial Road, Hereford, HR1 2BP</b>	
Solicitor	N/K	
Type of application: <b>Variation</b>	Date received: <b>26<sup>th</sup> September 2015</b>	28 Days consultation ended <b>23<sup>rd</sup> October 2015</b>

5. **Summary of Application**  
The application requests the removal of the condition shown on the existing premises licence which reads:
  - *On Friday and Saturday nights from 10.00 pm, two SIA Licensed Door Supervisors will be employed at the premises until the termination of licensable activities. When employed externally door staff shall wear high visibility reflective jackets or vests.*

6. **Current Licence**

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

Late night refreshment: Monday - Sunday - 23:00 to 01:30

Non Standard Timings:

None

7. **Summary of Representations**

A copy of the representations can be found within the background papers.

Representations have been made by:

**Two (2)** of the Responsible Authorities (**Licensing Authority and the Police**). Both have submitted an outright objection.

8. The matter is therefore brought before Committee for determination.

## **Community Impact**

9. Any decision is unlikely to have any impact on the local community.

## **Equality duty**

10. There are no equality or human rights issues in relation to the content of this report.

## **Financial implications**

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

## **Legal Implications**

12. 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.

Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.

This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL 648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

In addition to this it was stated that any condition attached to the licence should be an enforceable condition.

The case of Luminar Leisure Ltd v Wakefield Magistrates' Court, Brooke Leisure Limited, Classic Properties Limited, Wakefield Metropolitan District Council, heard before the High Court of Justice, Queen's Bench Division The Administrative Court, 18 April 2008, [2008] EWHC 1002 (Admin) would appear to be relative in this matter.

This matter involved an application by Luminar for a nightclub which was located just outside the Wakefield Cumulative Impact Area. The application was granted by the Local Authority and that decision was subsequently appealed.

The judge allowed the appeal on the grounds 'because of the effect which the increase in the number of people attending such a venue in Westgate would have, generally, on crime and disorder in the area'.

The matter was further appealed to the High Court by way of case stated.

Three questions were posed for the Judge to address. The last question asked was 'Was it a proportionate response to refuse the licence rather than to impose conditions on any licence?'

In respect of this it was stated 'To put a limit on the extent to which cumulative impact is legally relevant is something which seems to me not to be permitted by the statute. But with all that this condition was not sought. So the answer to question 3 is "yes"'.

The stated case of 'The Queen on the application of JD Wethersoon PLC v Guildford Borough Council which appeared in front of the Honourable Mr Justice Beatson at the Queens Bench Division Administrative Court on 11<sup>th</sup> April 2006 at paragraph 73 stated:

'The guidance provides that, where a cumulative impact policy is so adopted, there will be a rebuttable presumption that applications for new premises licences or material variations will normally be refused. To that extent, where there is such a policy, the guidance must permit an individual application to be considered on the basis of the rebuttable presumption so that the burden of proof lies on the applicant. In any event, if an area is so affected by serious alcohol related crime that the evidential basis for the special policy exists, requiring an applicant for a variation of the hours of premises in the area to demonstrate that the variation would not add to the area's problems does not mean that the "merits" of the application are not considered. A reversed burden of proof does not preclude consideration of the "merits" of an application.



## Right of Appeal

13. Schedule 5 gives a right of appeal which states:

### ***Variation of licence under section 35***

- 4(1) This paragraph applies where an application to vary a premises licence is granted (in whole or in part) under section 35.
- (2) The applicant may appeal against any decision to modify the conditions of the licence under subsection (4)(a) of that section.
- (3) Where a person who made relevant representations in relation to the application desires to contend—
- (a) that any variation made ought not to have been made, or
  - (b) that, when varying the licence, the licensing authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way, under subsection (4)(a) of that section,
- he may appeal against the decision.
- (4) In sub-paragraph (3) “relevant representations” has the meaning given in section 35(5).

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.

## Risk Management

14. There is little risk associated with the decision at this time as the legislation allows a right of appeal to the Magistrates Court.

## Consultees

15. All responsible authorities and members of the public living within Herefordshire.

## Appendices

- a) Application Form
- b) Police Representations
- c) Local Authority Representation

## Background Papers

None.





EH & TS / LICENSING SECTION  
 RECEIVED  
 24 SEP 2015

**Application to vary a premises licence 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.

EH & TS / LICENSING SECTION  
 RECEIVED  
 18 SEP 2015

I/We Munclies - Ardalan Ghafour  
 (Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number PR01581

**Part 1 – Premises Details**

Postal address of premises or, if none, ordnance survey map reference or description  
59 Commercial road #

Post town	<u>Hereford</u>	Post code	<u>HR12BP</u>
-----------	-----------------	-----------	---------------

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£

**Part 2 – Applicant details**

Daytime contact telephone number			
E-mail address (optional)	<u>-</u>		
Current postal address if different from premises address			
Post Town		Postcode	

**Part 3 - Variation**

~~15015~~  
 15015

Do you want the proposed variation to have effect as soon as possible? Please tick yes

If not do you want the variation to take effect from Day Month Year  

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

**Please describe briefly the nature of the proposed variation (Please see guidance note 1)**

to remove both but of the least  
1 of two Door Staff of municipalities  
between the hours of 10:30 pm  
and 1:30 am on Friday and Saturday  
nights

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend 

--

#### Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

##### Provision of regulated entertainment

Please tick yes

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

##### Provision of entertainment facilities:

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

Provision of late night refreshment (if ticking yes, fill in box L)

Sale by retail of alcohol (if ticking yes, fill in box M)

**In all cases complete boxes N, O and P**



L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	12	12	<b>Please give further details here</b> (please read guidance note 3)	Both	<input type="checkbox"/>
Tue	12	12			
Wed	12	12	<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 4) <i>take openings on Bank holidays and national holidays</i>		
Thur	12	12			
Fri	12	1:30	<b>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</b> (please read guidance note 5)		
Sat	12	1:30			
Sun	12	12			

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 6)			<b>State any seasonal variations</b> (please read guidance note 4)
Day	Start	Finish	
Mon			<b>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</b> (please read guidance note 5)
Tue			
Wed			
Thur			
Fri			
Sat			
Sun			

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking

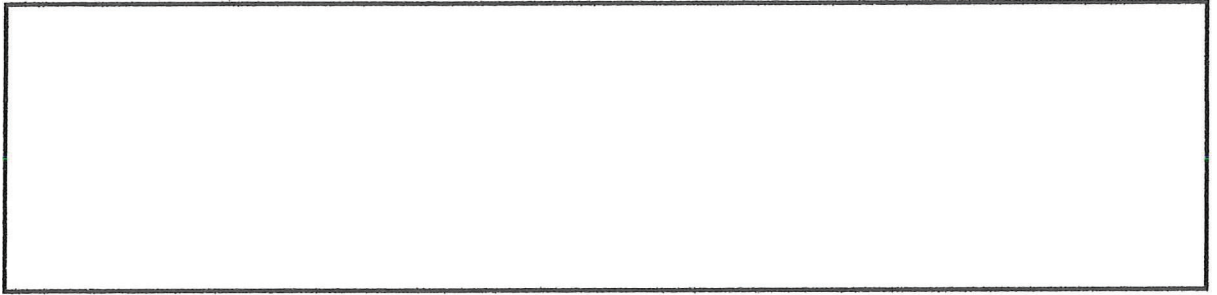
*Currently we must have the two door staff to open beyond 12 on both of these nights which no other provider must legally have on the street markets the golden garden, mr chips, wok and rice and the lunch box there is not enough trade to make this a financially viable option*

Please tick yes

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below

Reasons why I have failed to enclose the premises licence or relevant part of premises licence





**P** Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

**a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)**

**b) The prevention of crime and disorder**

**c) Public safety**

**d) The prevention of public nuisance**

**e) The protection of children from harm**

Please tick yes

- I have made or enclosed payment of the fee
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I understand that I must now advertise my application
- I have enclosed the premises licence or relevant part of it or explanation
- 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 5 – Signatures** (please read guidance note 10)

**Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent** (please read guidance note 11). If signing on behalf of the

S	
Date	12/09/15
Capacity	Director

Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) or 2nd applicant’s solicitor or other authorised agent (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	
Capacity	

**Contact name (where not previously given) and address for correspondence associated with this application** (please read guidance note 13)

<p><i>Stacie Kelly</i>  <b>ARDALAN GHAFOUR</b></p>			
Post town	<i>Hereford</i>	Post code	<i>HR1 2BP</i>
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail your e-mail address (optional)			

**Notes for Guidance**

**This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence you should make a new premises licence application under section 17 of the Licensing Act 2003.**

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. For example state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.





**NOT PROTECTIVELY MARKED**

West Mercia Police are in receipt of an application to vary the premises licence for a location known as **Chicken Munchies, Commercial Road, Hereford**.

The application is to vary the premises licence by removing the requirement to have SIA registered door supervisors or to reduce the numbers specified.

West Mercia Police OBJECT to this application on the grounds to allow it will undermine the licensing objectives.

The location of the premises is within an location identified as part of the special cumulative impact area for the city centre and is subject to a special policy contained within the licensing policy for Herefordshire Council. This area has a high concentration of all types of licensed premises and has a higher level of crime and disorder than other locations not part of the policy.

The applicant has indicated that the decision to remove this condition is based on cost, but has not put forward any other reasons why it should be removed. He has failed to identify the requirements contained within the special policy to address applications and has not put forward any alternative proposals to promote the licensing objectives.

If this matter progresses to a licensing hearing, West Mercia Police will submit additional information to support their objection

Regards

Jim Mooney (on behalf of Inspector 0795 SEMPER)

Harm Reduction/Community Safety Dept.,

Licensing & Harm Reduction Coordinator,

Policing Unit - Herefordshire,

West Mercia Police.

DDI 01432 347102

Switchboard '101' x 4702

[james.mooney@westmercia.pnn.police.uk](mailto:james.mooney@westmercia.pnn.police.uk)

**In Herefordshire we protect people from harm**

**#destinationHereford**

View our new Warwickshire Police and West Mercia Police websites at:  
[www.warwickshire.police.uk](http://www.warwickshire.police.uk) and [www.westmercia.police.uk](http://www.westmercia.police.uk)

**Representation made by the Local Authority 0m 19<sup>th</sup> October 2015**

I am an officer authorised under the Licensing Act 2003.

I refer to the application made for a variation to the premises licence in respect of '**Chicken Munchies, Commercial Road, Hereford**'.

The premises is within the area identified within the Herefordshire Council Licensing Policy as part of the Cumulative Impact Policy.

The Licensing Authority must **object** to the variation of the licence on the grounds that to grant the application would undermine the licensing objectives.

The applicant only acquired the premises on transfer at the beginning of September 2015. The applicant therefore would have been aware of the door staff requirement upon acquiring the premises. The applicant states that the reason for requesting removal of door staff is due to cost. This reason give fails to fall within any of the four licensing objectives.

It is the opinion of the Licensing Authority that the onus is who the applicant to produce some real evidence to justify the removal of the conditions in line with the stated case of Thwaites.

The applicant has offered nothing further by way of conditions to mitigate the removal of door staff.



**Fred Spriggs  
Licensing Officer**







<b>Meeting:</b>	<b>Regulatory Sub-Committee</b>
<b>Meeting date:</b>	<b>12<sup>th</sup> November 2015</b>
<b>Title of report:</b>	<b>REVIEW OF A PREMISES LICENCE IN RESPECT OF: CHAMPAGNE SIGNATURE, 14-15 UNION STREET, HEREFORD, HR1 2BT - LICENSING ACT 2003</b>
<b>Report by:</b>	<b>Fred Spriggs - Licensing Officer</b>

### **Classification**

Open

### **Key Decision**

This is not an executive decision.

### **Wards Affected**

Central

### **Purpose**

To consider an application for the Review of a Premises Licence in respect of Champagne Signature, 14-15 Union Street, Hereford, HR1 2BT.

### **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 appropriate to promote the licensing objectives,
- The Police application for the review,
- The Guidance issued to local authorities under the Licensing Act 2003, and
- The Herefordshire Council Licensing Policy.

### **Options**

1. There are a number of options open to the committee:

---

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

- the modification of the conditions of the premises licence;
- to exclude a licensable activity 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.

## Reasons for Recommendations

2. Ensures compliance with the Licensing Act 2003.

## Key Considerations

3. 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

Applicant	<b>Chief Constable – West Mercia Police</b> <b>Represented by: - Inspector Semper</b>	
Premise Licence Holder	<b>Mr Mikayeel Deen</b> <b>14-15 Union Street, Hereford, HR1 2BT</b>	
Solicitor	<b>N/K</b>	
Type of application: <b>Review</b>	Date received: <b>23/09/2015</b>	End of 28 day period <b>20/10/2015</b>

4. The application for the review has received no representation.
5. Neither the police nor the Licensing Authority has been contacted by the premises licence holder.
6. Copies of the application were sent to the premise licence holder and responsible authorities.
7. The police grounds for the review are:  
*The premises is a well established restaurant. The premises is licensed for the sale of alcohol and the provision of late night refreshment.*

*As a result of intelligence a joint enforcement visit was made to the premises by the UK Border Agency and West Mercia Police on the 17 September 2015.*

---

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

*At this time the premises were open to the public and staff were working*

*Two members of staff were detained. One had no entitlement to be in the country and the other was classed as an individual who had over stayed their entitlement period to remain in the United Kingdom.*

*It is the view of West Mercia Police that the employment of these men is a financial gain for the premises licence holder as no UK tax and insurance are paid legally. It shows a lack of control and management of the premises by the premises licence holder and a disregard to legal requirements concerning the employment of non UK or EU nationals*

## 8. **Current Licence**

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

Live Music / Performance of Dance Monday – Saturday: 19:00 until 01:00

Sunday: 19:00 until 23:00

Recorded Music Monday – Thursday: 10:00 until 01:00

Friday – Saturday: 10:00 until 02:00

Sunday: 10:00 until 00:00

Late Night Refreshment Monday – Thursday: 23:00 until 01:00

Friday – Saturday: 23:00 until 02:00

Sunday - from 23:00 until 00:00

Supply/Sale of Alcohol Monday – Thursday: 10:00 until 01:00

Friday – Saturday: 10:00 until 02:00

Sunday: 10:00 until 23:00

Non Standard Timings:

New Years Eve and day extend to 03.00; Christmas eve and Day and bank holiday extend to 0200; Good Friday 12-22.30

## **Community Impact**

9. Any decision is unlikely to have any significant effect of the local community.

## **Equality duty**

10. There are no equality or human rights issues in relation to the content of this report.

## Financial implications

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

## Legal Implications

12. An appeal may be made within 21 days to the Magistrates Court by the police or the licence holder once notified of the licensing authority's decision.
13. 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.
14. 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.

Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.

This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL 648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

In addition to this it was stated that any condition attached to the licence should be an enforceable condition.

15. The Guidance issued under Section 182 covers the employment of persons unlawfully in the UK and states:
  - 11.27 *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 drugs controlled under the Misuse of Drugs Act 1971 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 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 or storage of smuggled tobacco and alcohol.*

11.28 *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.*

## **Risk Management**

16. There is little risk associated with the decision at this time as the legislation allows representation to be made against the interim steps.

## **Consultees**

17. Copies of the application and certificate have been sent to the responsible authorities. A notice has been displayed at the premises, at the offices of the Licensing Authority and details have been shown on the council website.

## **Appendices**

1. Application for review

## **Background Papers**

None



**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.

I David SHAW - Chief Constable West Mercia Police

*(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 (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Champagne Signature 14-15 Union Street	
<b>Post town</b> Hereford	<b>Post code (if known)</b> HR1 2BT

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mikayeel DEEN
--

<b>Number of premises licence or club premises certificate (if known)</b> PR01444
--

**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  Police Inspector 0795 SEMPER Policing Unit - Herefordshire Hereford Police Station Bath Street Hereford. HR1 2HT
Telephone number (if any) 01432 347102
E-mail address (optional) licensing.herefordshire@westmercia.pnn.police.uk

**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 type="checkbox"/>            |

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

The premises is a well established restaurant. The premises is licensed for the sale of alcohol and the provision of late night refreshment

As a result of intelligence a joint enforcement visit was made to the premises by the UK Border Agency and West Mercia Police on the 17 September 2015.

At this time the premises were open to the public and staff were working

Two members of staff were detained. One had no entitlement to be in the country and the other was classed as an individual who had over stayed their entitlement period to remain in the United Kingdom.

It is the view of West Mercia Police that the employment of these men is a financial gain for the premises licence holder as no UK tax and insurance are paid legally. It shows a lack of control and management of the premises by the premises licence holder. In addition the activity involves criminal conduct by the premises licence holder and a disregard to legal requirements concerning the employment of non UK or EU nationals.

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

The premises were visited at 1720hrs (5.20pm) on Thursday 17 September 2015 as a result of a joint operation between West Mercia Police and the UK Border and Immigration Agency.

The premises were open to the public and a number of members of staff working. On checking national immigration data bases, two members of staff were found to be working illegally. One had no entitlement to be in the UK and the other had overstayed their entitlement to be in the UK.

The premises licence holder who is also the designated premises supervisor was not present.

West Mercia Police are of the view that employment of individuals in these circumstances is a serious matter that has a direct impact on the licensing objectives - in particular the prevention of crime and disorder. Additionally it impacts the financial status of the UK government

The guidance issued under Section 182 of the Licensing Act 2003 states that the employment of persons in these circumstances should be treated as particularly serious.

In order to progress this matter, West Mercia Police request that you grant this review application and you apply the following condition to the premises licence in order to promote the licensing objectives

A log book must be kept at the premises and made immediately available on request to an authorised person (as defined by Section 13 of the Licensing Act 2003), the Police or an officer of the UK Border Agency. The log book must record the following:

- a) Details of all persons employed at the premises in any capacity.
- b) Date of birth of the person.
- c) The full name of the person.
- d) Their current address.
- e) Their national insurance number.
- f) Their passport details.
- g) In respect of EU citizens, proof of a current EU passport, national insurance card, P45 or P60 shall be provided.
- h) In respect of non EU citizens, a passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom must be provided.

All such information shall be recorded prior to them working at the premises. All information detailed above to be supported by a copy of the relevant document.

**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**

N/A



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 21 September 2015

Capacity Police Inspector 0795

**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.