

A G E N D A

Regulatory Sub Committee

Date: **Wednesday, 5th October, 2005**

Time: **10.00 a.m.**

Place: **The Council Chamber, Town Hall,
St. Owen's Street, Hereford**

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

For any further information please contact:

*Ricky Clarke, Members' Services,
Tel: 01432 261885 Fax: 01432 260286*

email: rclarke@herefordshire.gov.uk

AGENDA

for the Meeting of the Regulatory Sub Committee

To: Councillors G.W. Davis, Brig. P. Jones CBE and J.W. Newman

	Pages
1. ELECTION OF CHAIRMAN To elect a Chairman for the hearing.	
2. APOLOGIES FOR ABSENCE To receive apologies for absence.	
3. NAMED SUBSTITUTES (IF ANY) To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
4. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
5. APPLICATION FOR VARIATION OF PREMISES LICENCE 'PORTWAY HOTEL, HEREFORD, HR4 7NH' To consider an application for variation of the premises licence in respect of Portway Hotel, Hereford, HR4 7NH.	5 - 10
6. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE PLOUGH INN, 82 WHITECROSS ROAD, HEREFORD, HR4 0DH.' To consider an application for variation of the premises licence in respect of The Plough Inn, 82 Whitecross Road, Hereford, HR4 0DH.	11 - 16
7. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE TRAM INN, EARDISLEY, HEREFORD, HR3 6PG.' To consider an application for variation of the premises licence in respect of The Tram Inn, Eardisley, Hereford, HR3 6PG.	17 - 22
8. APPLICATION FOR VARIATION OF PREMISES LICENCE 'HEREFORD RACECOURSE, ROMAN ROAD, HEREFORD, HR4 9QU.' To consider an application for variation of the premises licence in respect of Hereford Racecourse, Roman Road, Hereford, HR4 9QU.	23 - 30

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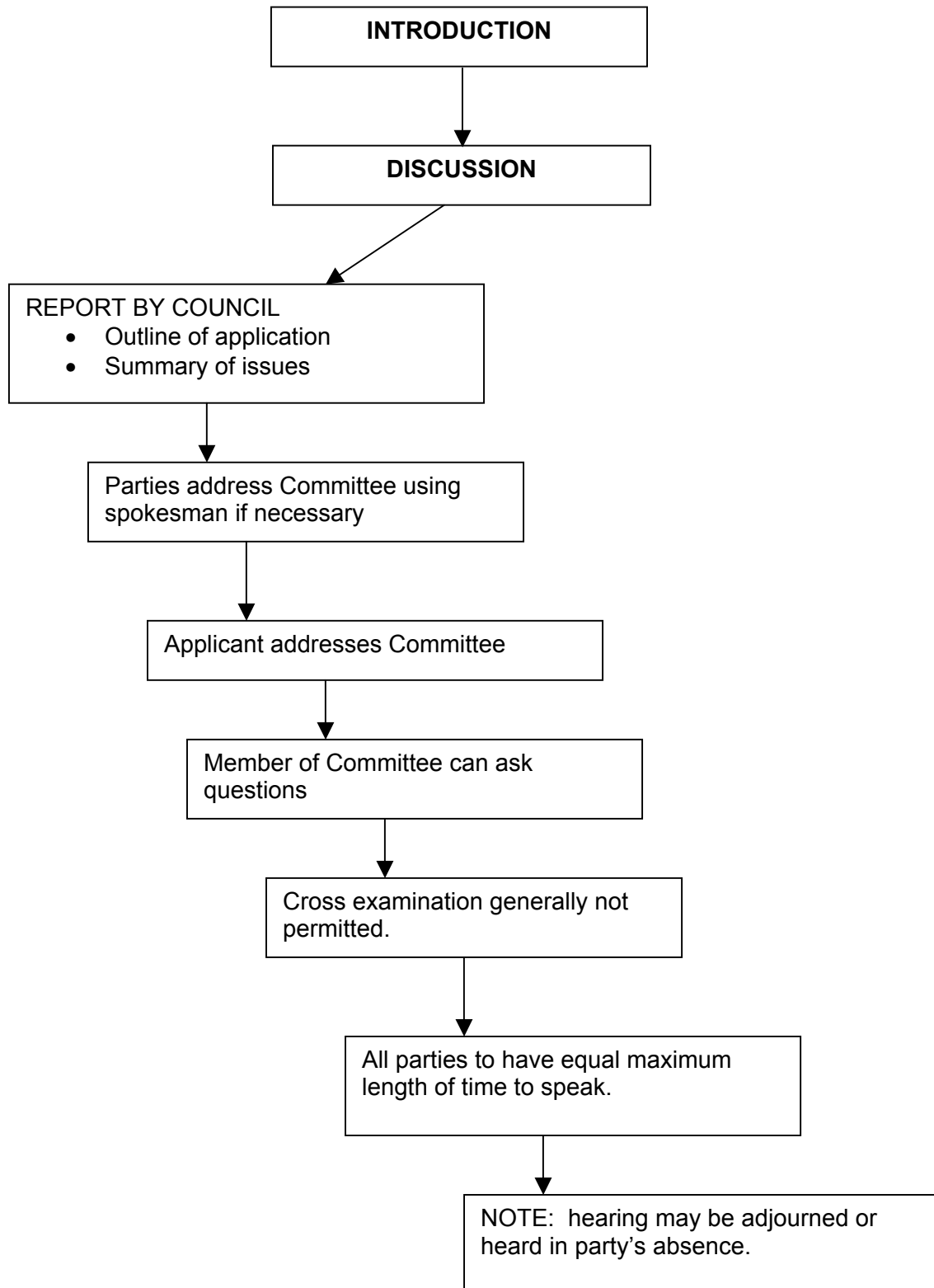
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LICENCING HEARING FLOW CHART



**APPLICATION FOR VARIATION OF PREMISES
LICENCE IN RESPECT OF – PORTWAY HOTEL,
HEREFORD, HR4 7NH - LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Castle

Purpose

1. To consider an application for variation of the premises licence in respect of Portway Hotel, Hereford, HR4 7NH

Background Information

2.

Applicant	Jason and Lee Stewart		
Premise	Portway Hotel, Hereford, HR4 7NH		
Type of application: Variation	Date received: 06/08/2005	28 Days consultation 03/09/2005	Issue Deadline: 6 /10/2005

Conversion Licence Application

3. A conversion licence will be issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon – Sat 1000 am – 2300 pm Sunday 1200 midday – 2230 pm New Years Eve 1000 am – 0000 midnight New Years Day 0000 – 2300 pm Christmas Day 1200 – 1500 and 1900 – 2230

With the following condition attached:-

The premises does not hold a current public entertainment licence.

- To retain all embedded permissions and restrictions attached to a Justices On Licence.

Variation Licence Application

4. The application for a variation to the premise licence has received representations by responsible authorities and is therefore now brought before the sub-committee for determination.

Summary of Application

5. The licensable activities applied for are: -

Live Music (Indoors Only)

Late Night Refreshment (Indoors Only)

Supply of Alcohol (On The Premises)

(Activities in bold are those not previously licensed)

6. The following hours have been applied for in respect of Live Music (*Indoors*):-

Mon – Sun 1100 – 0200

7. The following have been applied for in respect of Late Night Refreshment (*indoors*):-

Mon - Sun 1100 – 0200

8. The following hours have been applied for in respect of Supply of Alcohol (*On the Premises*):-

Mon - Sun 1100 – 0200

9. The following hours have been applied for in respect Hours Premises are Open to the Public:-

Mon – Sun 1100 – 0200

10. **Non Standard hours**

The application does not apply for '**non-standard**' hours.

11. **Summary of Representations**

West Mercia Police

Have made representation in respect of the application and request a number of conditions be applied to the licence to prevent crime and disorder.

They mention that the application gives no indication of what steps if any the applicant intends to take to promote any of the licensing objectives. The

operating schedule gives no indication of how the premise will operate, or when the regulated entertainment will take place.

In order to promote the licensing objectives and in particular, with a view to preventing crime and disorder, the police authority would like to see the following conditions imposed:

- The provision of CCTV which meets the requirements and expectations of the Licensing Authority and Police.
- The provision of a last entry time of 0000 midnight, except to residents and bona fida guests of residents
- The provision of an incident book
- The prevention of open containers being removed from the premise except to the beer garden
- The provision of a personal licence holder at all time the premise is open for the retail of alcohol

The above are the minimum conditions the police authority would wish to see on any converted licence issued.

Fire Authority

The fire authority have made no relevant representation.

Environmental Health

Environmental Health Officers have made representations in relation to the application. This representation addresses the licensing objectives of Public Safety, Prevention of Public Nuisance, and Protection of children from harm.

With respect to public safety they seek conditions in relation to overcrowding, ventilation and air conditioning, first aid, accidents, lighting, electrical installation, fire safety and gas installations.

With respect to the prevention of public nuisance they seek conditions in relation to noise and light pollution.

With respect to the protection of children from harm they seek conditions in relation to proof of age regulations and prevention of unlawful supply, consumption and use of alcohol, drugs and other products.

Interested Parties

The Local Authority has not received representation from interested parties.

12. Issues for Clarification

The licensing authority has requested clarification from the applicants Jason and Lee Stewart regarding the following issues:-

There is no provision for a drinking up time on the application.

Confirmation is sought on the promotion of the Licensing objectives; in particular how the premises will operate or when regulated entertainment will take place.

There is no provision for Bank Holidays, New Years Eve, Christmas Eve, and Christmas Day.

13. Herefordshire Council Licensing Policy

In making its decision the committee will be obliged to have regard to its own policy, the DCMS guidance and have regard to all documents specified within the DCMS Guidance.

14. Options:-

It is for the committee to take such steps below as it considers necessary for the promotion of the licensing objectives:

- 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.
- Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it necessary for the promotion of the licensing objectives and add mandatory condition set out in the Licensing Act 2003.
- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To refuse to specify a person in the licence as the premise supervisor
- To reject the application.

15. Background Papers

- Public Representation forms
- Environmental Health & Trading Standards Comments
- Application Form
- Any other associated papers

Background papers are available for inspection in the Library, Shirehall, 30 minutes before the start of the hearing.

NOTES

Guidance issued under section 182 of the Licensing Act 2003, Section S18(7)

Relevant, vexatious and frivolous representations

5.73 A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives...

5.74 It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious...

The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness...

The operating schedule

5.46 The operating schedule will form part of the completed application form for a premises licence. An operating schedule should include information which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory.

An operating schedule must also set out the following details:

- The relevant licensable activities to be conducted on the premises;
- The times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year);

Schedule 1 of the Licensing Act 2003 defines regulated entertainment as follows: -

The descriptions of entertainment are-

- a performance of a play,
- an exhibition of a film,
- an indoor sporting event,
- a boxing or wrestling entertainment,
- a performance of live music,
- any playing of recorded music,
- a performance of dance,
- entertainment of a similar description to that falling within paragraph (e), (f) or (g),

where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.

Incidental music

5.18 The incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated entertainment activities under the 2003 Act in certain circumstances. This is where they are incidental to another activity which is not itself entertainment or the provision of entertainment facilities.

So, for example, a juke box played in a public house at moderate levels would normally be regarded as incidental to the other activities there, but one played at high volume would not benefit from this exemption. Stand-up comedy is not regulated entertainment and musical accompaniment incidental to the main performance would not make it a licensable activity.

Licensing Authorities power to exercise substantive discretionary powers.**The British Beer and Pub Association (2) The Association of Licensed Multiple Retailers (3) The British Institute of Inn Keeping V Canterbury City Council.**

Contesting the validity of the Licensing policy that asks for certain requirements before the application has been submitted. In the summing up the Judge states; The scheme of the legislation is to leave it to applicants to determine what to include in their applications, subject to the requirements of Section 17 and the Regulations as to the prescribed form and the inclusion of a statement of specified matters in the operating schedule. An applicant who makes the right judgement, so that the application gives rise to no relevant representations, is entitled to the grant of a licence without the imposition of conditions. The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision/making function under Section 18(3) is engaged.

**APPLICATION FOR VARIATION OF PREMISES
LICENCE IN RESPECT OF – ‘THE PLOUGH INN, 82
WHITECROSS ROAD, HEREFORD, HR4 0DH’ -
LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Hereford – Three Elms

Purpose

1. To consider an application for variation of the premises licence in respect of The Plough Inn, 82 Whitecross Road, Hereford, HR4 0DH.

Background Information

- 2.

Applicant	Colin Joseph Brown Owners: Punch Taverns Plc, Jubilee House, Second Avenue, Burton Upon Trent, Staffordshire, DE14 2WF		
Solicitor	TLT Solicitors, One Redcliff Street, Bristol, BS1 6TP		
Premise	The Plough Inn, 82 Whitecross Road, Hereford, HR4 0DH		
Type of application: Variation	Date received: 06/08/05	28 Days consultation 03/09/05	Issue Deadline: 06/10/05

Conversion Licence Application

3. A conversion licence will be issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon – Sat (incl) 1000 am – 2300 pm Sunday 1200 midday – 2230 pm New Years Eve 1000 am – 0000 midnight New Years Day 0000 – 2300 Christmas Day 1200 – 1500 and 1900 – 2230 Public Entertainment; Mon – Sat 1100 – 2300 Sunday 2230

With the following condition attached:-

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (mentioned above)

- The premises does not hold a current public entertainment licence.
- To retain all embedded permissions and restrictions attached to a Justices On Licence
- To retain all embedded permissions and restrictions attached to the public entertainment licence

Variation Licence Application

4. The application for a variation has received representations by responsible authorities and 2 members of the public therefore it is now brought before the sub-committee for determination

Summary of Application

5. The licensable activities applied for are: -

Live Music (*Indoors*)

Recorded Music (*Indoors*)

Provision of facilities for making music (*Indoors*)

Provision of facilities for dancing (*Indoors*)

Provision of facilities for entertainment of a similar description to that falling within I or J (*Indoors*)

(Activities in bold are those not previously licensed)

6. The following hours have been applied for in respect of Live Music (*Indoors only*):-

Mon – Thurs, and Sunday 1000 am – 0000 midnight

Friday – Saturday 1000 am – 0030 am

7. The following hours have been applied for in respect of recorded music (*Indoors only*):-

Mon – Thurs, and Sunday 1000 am – 0000 midnight

Friday and Saturday 1000 am – 0200 am

8. The following have been applied for in respect of the provision of facilities for making music (*indoors only*):-

Mon – Thurs, and Sunday 1000 am – 0000 midnight

Friday and Saturday 1000 am – 0030 am

9. The following hours have been applied for in respect of provision of facilities for dancing (*indoors only*):-

Mon – Thurs, and Sunday 1000 am – 0000 midnight

Friday and Saturday 1000 am – 0200 am

10. The following hours have been applied for in respect of provision of facilities for entertainment of a similar description to that falling within I or J (*Indoors and Outdoors*):-

Mon – Thurs, and Sunday 1000 am – 0000 midnight

Friday and Saturday 1000 am – 0200 am

11. The following hours have been applied for in respect of supply of alcohol (*Indoors or outdoors*):-

Mon – Thurs, and Sunday	1000 am – 0000 midnight
Friday and Saturday	1000 am – 0200 am

12. The hours that the premises will be open to members of the public:-

Mon – Thurs, and Sunday	1000 am – 0030 am
Friday and Saturday	1000 am – 0230 am

13. **Non Standard hours**

The application applies for ‘**non-standard**’ hours.

In respect of Live Music, Recorded Music, Performances of Dance, Provision of facilities for making music and Provision of facilities for dancing, the applicant has stated the following:-

To reflect existing New Years Eve/Day hours.

In respect of the supply of alcohol:-

1100 New Years Eve to start of permitted hours New years day
Bank holidays 1100 – 0100
Sunday before Bank Holiday 1100 - 0100

In respect of ‘Hours the premises are open to the public’:-

Closing on the non-standard days as listed in Section M with a 30 minute drinking up time added on.

14. **Summary of Representations**

West Mercia Police

Have recommended that in order to promote the licensing objectives and in particular, with a view to preventing crime and disorder, they would like to see the licensing authority impose the following conditions:

- The provision of a last entry time of 0000
- The provision of a terminal hour for the use of the garden area on the plan for the consumption of alcohol
- The provision of a condition preventing the removal of open containers from the premise, except to the beer garden/skittle alley.

Fire Authority

The fire authority have made comments about a fire risk assessment being required.

Environmental Health Pollution

Environmental Health Pollution Team received a letter dated 26/07/05 concerning a noise limitation device with the complainant believes has been removed from the Plough inn. Previous complaints were received in May 2005 concerning new proprietors using skittle alley although unsuitable for live music.

Environmental Health

Have made comments on the prevention of public nuisance, public safety, and protection of children from harm, in particular measures relating to noise levels to ensure that these do not cause nuisance to neighbouring properties. There has been noise problems at the premises and recently the licensee operating outside his Public Entertainment Licence conditions whereby the noise limiting device was removed and not reinstalled until the Licensing Officer and Environmental Health Officer took enforcement action to ensure it was fitted out and calibrated following noise complaints.

Interested Parties

The Local Authority has received 2 letters of representation in respect of the application, and general area from residents.

The concerns relate to:

- The Prevention of Crime & Disorder
- Prevention of Public Nuisance
- Public Safety

15. Herefordshire Council Licensing Policy

In making its decision the committee will be obliged to have regard to its own policy, the DCMS guidance and have regard to all documents specified within the DCMS Guidance.

16. Options:-

It is for the committee to take such steps below as it considers necessary for the promotion of the licensing objectives:

- 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.
- Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it necessary for the promotion of the licensing objectives and add mandatory condition set out in the Licensing Act 2003.
- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To refuse to specify a person in the licence as the premise supervisor
- To reject the application.

17. Background Papers

- Public Representation forms
- Environmental Health & Trading Standards Comments

- Application Form
- Any other associated papers

Background papers are available for inspection in the Town Hall, St Owen Street, Hereford, 30 minutes before the start of the hearing.

NOTES

Guidance issued under section 182 of the Licensing Act 2003, Section S18(7)

Relevant, vexatious and frivolous representations

5.73 A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives...

5.74 It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious...

The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness...

The operating schedule

5.46 The operating schedule will form part of the completed application form for a premises licence. An operating schedule should include information which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory.

An operating schedule must also set out the following details:

- The relevant licensable activities to be conducted on the premises;
- The times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year);

Schedule 1 of the Licensing Act 2003 defines regulated entertainment as follows: -

The descriptions of entertainment are-

- a performance of a play,
- an exhibition of a film,
- an indoor sporting event,
- a boxing or wrestling entertainment,
- a performance of live music,
- any playing of recorded music,

- a performance of dance,
- entertainment of a similar description to that falling within paragraph (e), (f) or (g),

where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.

Incidental music

5.18 The incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated entertainment activities under the 2003 Act in certain circumstances. This is where they are incidental to another activity which is not itself entertainment or the provision of entertainment facilities.

So, for example, a juke box played in a public house at moderate levels would normally be regarded as incidental to the other activities there, but one played at high volume would not benefit from this exemption. Stand-up comedy is not regulated entertainment and musical accompaniment incidental to the main performance would not make it a licensable activity.

Licensing Authorities power to exercise substantive discretionary powers.

The British Beer and Pub Association (2) The Association of Licensed Multiple Retailers (3) The British Institute of Inn Keeping V Canterbury City Council.

Contesting the validity of the Licensing policy that asks for certain requirements before the application has been submitted. In the summing up the Judge states; The scheme of the legislation is to leave it to applicants to determine what to include in their applications, subject to the requirements of Section 17 and the Regulations as to the prescribed form and the inclusion of a statement of specified matters in the operating schedule. An applicant who makes the right judgement, so that the application gives rise to no relevant representations, is entitled to the grant of a licence without the imposition of conditions. The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision/making function under Section 18(3) is engaged.

APPLICATION FOR VARIATION OF PREMISES LICENCE IN RESPECT OF – ‘THE TRAM INN, EARDISLEY, HEREFORD, HR3 6PG’ - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected

Castle

Purpose

- To consider an application for variation of the premises licence in respect of The Tram Inn, Eardisley, Hereford, HR3 6PG.

Background Information

2.

Applicant	Mr Paul Austin and Miss Carol Janet Wilson		
Solicitor	N/A		
Premise	The Tram Inn, Eardisley, Hereford, HR3 6PG		
Type of application: Variation	Date received: 06/08/05	28 Days consultation 03/09/05	Issue Deadline: 06/10/05

Conversion Licence Application

- A conversion licence will be issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon – Sat 1000 am – 2300 pm Sunday 1200 midday – 2230 pm New Years Eve 1000 am – 0000 midnight New Years Day 0000 – 2300 pm Christmas Day 1200 – 1500 and 1900 – 2250

With the following condition attached:-

The premises does not hold a current public entertainment licence.

Variation Licence Application

Further information on the subject of this report is available from Suzanne Laughland, Licensing Manager on (01432) 261675

4. The application for a variation has received representations by responsible authorities therefore it is now brought before the sub-committee for determination.

Summary of Application

5. The licensable activities applied for are: -

Live Music (indoors and outdoors)

Recorded Music (indoors and outdoors)

Provision of facilities for dancing (indoors and outdoors)

Supply of Alcohol (on and off premises)

Hours premises are open to the public.

(Activities in bold are those not previously licensed)

6. The following hours have been applied for in respect of Live Music (*Indoors and Outdoors*):-

Fri – Sat 2000 pm – 0000 midnight

7. The following have been applied for in respect of recorded music (*indoors and outdoors*):-

Fri – Sat 2000 pm – 0000 midnight

8. The following hours have been applied for in respect of provision of facilities for dancing (*indoors and outdoors*):-

Fri – Sat 2000 pm – 0000 midnight

9. The following hours have been applied for in respect of supply of alcohol (*indoors and outdoors*):-

Mon – Thurs 1100 am – 0000 midnight

Fri – Sat 1100 am – 0100 am

Sun 1200 pm – 2300 pm

10. The hours that the premises will be open to members of the public:-

Mon – Thurs 1200 pm – 1500 pm & 1800 pm – 0000 midnight

Fri – Sat 1200 pm – 1500 pm & 1800 pm – 0100 am

Sun 1200 pm – 1600 pm & 1900 pm – 2300 pm

11. Non Standard hours

The application applies for 'non-standard' hours.

In respect of Live Music, Recorded Music, and Provision of facilities for dancing, the applicant has stated the following:-

'Events may start earlier where there is a daytime or early evening function. These would not start before 1200 noon. On a different day where a special event does not fall on a Friday or Saturday (eg. Birthday). On Christmas Eve and New Years Eve (extend until 0100 am)'

In respect of the supply of alcohol:-

Christmas Eve (extend until 0100 am)
New Years Eve (extend until 0100 am)

In respect of 'Hours the premises are open to the public':-

'On occasion may be open later than 1500 to allow drinking up time. Also on occasion may be open all-day (e.g. during Eardisley Festival or Bank Holidays).....please note evening closing times given includes any drinking up time.

12. Summary of Representations**West Mercia Police**

West Mercia Police have noted that the applicant has made no provision for a wind down period or drinking up time at the end of the hours being sought for the retail of alcohol. It is the view of the Chief Constable that such a period is conducive to the maintenance of order, and would promote the licensing objectives.

The Chief Constable would seek the licensing authority to request the applicant to amend the application to include a 30 minute drinking up time.

Fire Authority

The fire authority have no comments.

Environmental Health

Environmental Health Officers have made representations in relation to the application. This representation addresses the licensing objectives of Public Safety, Prevention of Public Nuisance, and Protection of children from harm.

With respect to public safety they seek conditions in relation to overcrowding, Ventilation and heating, first aid, lighting, electrical installation, fire safety, gas installations and open containers.

With respect to the prevention of public nuisance they seek conditions in relation to requiring any licensable activities/events to be held outside to be by

way of Temporary Events Notices only, and also recommend some conditions in respect of noise and vibration.

With respect to the protection of children from harm they seek conditions in relation to proof of age regulations and prevention of unlawful supply, consumption and use of alcohol, drugs and other products.

Interested Parties

The Local Authority has received 2 letters of representation in respect of the application, and general area from residents.

The concerns relate to:

- The Prevention of Crime & Disorder
- Prevention of Public Nuisance

13. Issues for Clarification

This Authority has requested clarification from the applicants on:

- 1) introducing a drinking up time
- 2) Why the premises are open to the public an hour before the sale and supply of alcohol

14. Herefordshire Council Licensing Policy

In making its decision the committee will be obliged to have regard to its own policy, the DCMS guidance and have regard to all documents specified within the DCMS Guidance.

15. Options:-

It is for the committee to take such steps below as it considers necessary for the promotion of the licensing objectives:

- 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.
- Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it necessary for the promotion of the licensing objectives and add mandatory condition set out in the Licensing Act 2003.
- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To refuse to specify a person in the licence as the premise supervisor
- To reject the application.

16. Background Papers

- Public Representation forms
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where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.

Incidental music

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**APPLICATION FOR VARIATION OF PREMISES
LICENCE IN RESPECT OF – ‘HEREFORD
RACECOURSE, ROMAN ROAD, HEREFORD, HR4 9QU’
- LICENSING ACT 2003**

Report By: Head Of Environmental Health and Trading Standards

Wards Affected:

Three Elms

Purpose

1. To consider an application for variation of the premises licence in respect of Hereford Racecourse, Roman Road, Hereford, HR4 9QU.

Background Information

2.

Applicant	Hereford Racecourse Company Limited		
Solicitor	Poppleston Allen, Licensing Solicitors, 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS		
Premise	Hereford Racecourse, Roman Road, Hereford, HR4 9QU		
Type of application: Variation	Date received: 05/08/05	28 Days consultation 02/09/05	Issue Deadline: 05/10/05

Conversion Licence Application

3. A conversion licence will be issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises.	Monday – Saturday 10.00 to 23.00 Sundays and Good Friday 12.00 to 22.30 Christmas Day 12.00 to 15.00 and 19.00 to 22.30 New Years Eve 10.00 hours to 23.00 hours New Years Day (Sections 59, 60, 61, 63 of the Licensing Act 1964)
Regulated Entertainment.	Public entertainment is permitted on the licensed premises as follows: In the Cider press restaurant in the Members Stand. Monday to Saturday 11.00 until 23.30. Sunday 11:00 until 22:30 for musical entertainment only. Sunday 19:00 until 22:30 for dancing where no admission charge made.

Late Night Refreshment	The sale of hot food and drink to non residents is permitted up to 30 minutes after the permitted hours for the sale of alcohol end under the provisions of the Late Night Refreshment House Act 1969.
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With the following condition attached:-

- 20 minutes drinking up time after the end of the sale of alcohol. (mentioned above).
- All embedded permissions and restrictions attached to a Justices On Licence. The playing of recorded music in the premises is permitted 24 hours a day pursuant to Section 182 of the Licensing Act 1964.
- Maximum number of persons admitted to the Cider press restaurant 300.
- Minimum number of visually identifiable stewards shall be 4.
- The Standard Conditions for Licensing of Premises for Regulated Entertainment.

Variation Licence Application

4. The application for a variation has received representations by responsible authorities therefore it is now brought before the committee to determine the application. The areas in question are the whole Racecourse including the following buildings as detailed on the plans:-

- Stewards and directors dining the premier boxes Members Stand and first floor.
- Cider Press Restaurant and bar members stand ground floor.
- Tattersalls stand
- Jockeys facilities weighing room and officers owners and trainers bar
- The Dawson suite silvering stand first floor.
- The Dawson bar silvering stand ground floor.

Summary of Application

5. **The licensable activities applied for are: -**

Live Music

Recorded Music

Performances of dance

Supply of alcohol

Hours premises open to the public (Not licensable on its own)

6. The following hours have been applied for in respect of Live Music performances of dance recorded music facilities for making music provision of facilities for dancing and supply of alcohol. All activities are applied to take place within all the buildings listed above and the whole of the outside area of the race course:-

Monday to Sunday 1000 am – 0200 am

11. The following hours have been applied for in respect of provision of facilities for Late Night Refreshment: - All activities are applied to take place within all the buildings listed above and the whole of the outside area of the race course
Monday – Sunday 2300 pm – 0200 am

12. The hours that the premises will be open to members of the public:-
Monday – Sunday 0000 – 0000 (24 hours)

13. **Non Standard hours**

The application applies for ‘non-standard’ hours.

In respect of Live Music, Recorded Music, Provision of facilities for making music, Late Night Refreshment, Provision of facilities for dancing, Supply of alcohol and hours the premises are open to the public, the applicant has stated the following:-

An additional hour to the standard and non-standard times on the day when British Summertime commences.

14. **Seasonal Variations**

No application is made for seasonal variations.

15. **Removal of Conditions**

To remove any embedded restrictions which are placed on the licence by virtue of Schedule 8 paragraph 6(8) of the Licensing Act 2003 other than the permitted hours for the sale of alcohol as varied by this application and the New Years Eve deregulation order.

17. **Summary of Representations**

West Mercia Police

Without the full knowledge of how they intend to operate the Chief Constable for West Mercia Constabulary could not make any representations in respect of any conditions, as such would seek the licensing authority to refuse to grant any variation applied for. A copy of the representation is contained within the background papers.

Fire Authority

The fire authority has no representations.

Environmental Health

Premises:-

Environmental Health have concerns relating to noise emanating from some of the buildings on the application some of the buildings are very close to noise sensitive dwellings and are constructed in a manner that does not lend themselves to preventing noise break out, the area would experience reasonable low background levels due to its location. Conditions are recommended for each of the premises.

Outside area:-

Environmental Health state there is no information concerning what activities are proposed in the outside area and therefore it is very difficult to comment. As the area is of considerable size and that the ability to stage reasonable large events they would like more details to enable a suitable and adequate evaluation of the application however they do go on to add conditions.

There have been three noise complaints received by Environmental Health in relation to noise from a generator, Music and the DJ in the big top of the Circus held on the Hereford Racecourse in April 2005.

A copy of the representation is contained within the background papers.

Interested Parties

There are no representations from interested parties.

18. Issues for Clarification

This authority has requested clarification on particular points from the parties shown.

The Applicants – Hereford Racecourse Company Limited

Have been requested to provide clarification in respect of matters contained within their application, regarding the following:-

a) What is meant by 'the style and operation of the premises will not differ significantly as a result of the variation. The primary use will still be as a racecourse and on occasions events will be held both within the premises and within the grounds unconnected to horseracing' in the application section Q (a) of the operating schedule?

b) Can the events requiring extended hours be applied for by means of a Temporary Event Notice if the operation of Hereford Racecourse is intended to effectively stay the same?

c) Please provide the risk assessment for the horseracing days as stated in section Q (a) of the operating schedule.

d) Also in section Q (a) of the operating schedule the application states 'when licensable activities take place and horseracing is not taking place then an

equivalent risk assessment will be carried out. This risk assessment will be available for the authorities and any reasonable request of the authorities will be complied with' the application does not state on which days these events will take place, please provide details of the days, the type of event, the number of persons attending, the location within the race course (inside buildings or outside) and the risk assessments for those intended events.

e) Herefordshire Race Course does not have a stand called the Brandling House Stand please confirm which stand this applies to on the Hereford racecourse site plan?

f) Please confirm which conditions you intend to have removed and does this include the public entertainments licence conditions?

Environmental Health.

a) Without seeing the risk assessments for the proposed activities can you be sure that your recommended conditions will ensure the licensing objectives are satisfied?

19. Herefordshire Council Licensing Policy

In making its decision the committee will be obliged to have regard to its own policy, the DCMS guidance and have regard to all documents specified within the DCMS Guidance.

20. Options:-

It is for the committee to take such steps below as it considers necessary for the promotion of the licensing objectives:

- 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.
- Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it necessary for the promotion of the licensing objectives and add mandatory condition set out in the Licensing Act 2003.
- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To refuse to specify a person in the licence as the premise supervisor
- To reject the application.

21. Background Papers

- Environmental Health representations
- West Mercia Constabulary representations
- Application Form
- Any other associated papers

Background papers are available for inspection in the Town Hall, 30 minutes before the start of the hearing.

NOTES

Guidance issued under section 182 of the Licensing Act 2003, Section S18(7)

The operating schedule

5.46 The operating schedule will form part of the completed application form for a premises licence. An operating schedule should include information which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory.

An operating schedule must also set out the following details:

- The relevant licensable activities to be conducted on the premises;
- The times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year);

Schedule 1 of the Licensing Act 2003 defines regulated entertainment as follows: -

The descriptions of entertainment are-

- a performance of a play,
- an exhibition of a film,
- an indoor sporting event,
- a boxing or wrestling entertainment,
- a performance of live music,
- any playing of recorded music,
- a performance of dance,
- entertainment of a similar description to that falling within paragraph (e), (f) or (g),

where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.

Incidental music

5.18 The incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated entertainment activities under the 2003 Act in certain circumstances. This is where they are incidental to another activity which is not itself entertainment or the provision of entertainment facilities.

So, for example, a juke box played in a public house at moderate levels would normally be regarded as incidental to the other activities there, but one played

at high volume would not benefit from this exemption. Stand-up comedy is not regulated entertainment and musical accompaniment incidental to the main performance would not make it a licensable activity.

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