

APPLICATION FOR GRANT OF A PREMISES LICENCE FOR 'HOM GREEN CHAPEL, ARCHENFIELD ROAD, HOM GREENM, HR9 5QN.' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Kerne Bridge

1. Purpose

To consider an application for a premises licence in respect of 'Hom Green Chapel, Archenfield Road, Hom Green, HR9 5QN.'

2. Background Information

Applicant	Alan Markby & Paul Sabel	
Solicitor	N/A	
Type of application: New	Date received: 12/05/07	28 Days consultation 08/06/07

The original advertisement for the premises has been seen and has been accepted.

3. Variation Licence Application

The application for a premises licence has received representations from a responsible authority and an interested party. It is therefore now brought before committee to determine the application.

4. Summary of Application

The licensable activities applied for are: -
Live Music and Recorded Music.

5. The following hours have been applied for in respect of Live Music (Indoors only) -
All days of the week 18:00 – 23:00

6. The following hours have been applied for in respect of Recorded Music (indoors only): -
All days of the week 18:00 – 22:00

No hours have been specified for the premises to be open to the public.

10. Non Standard hours

There is no application for 'non-standard' hours.

11. Summary of Representations

Copies of the representations and suggested conditions can be found within the background papers.

West Mercia Police

Have no representation to make.

Environmental Health

Have made representation in relation to public safety and prevention of public nuisance.

The applicant has agreed to the conditions requested by the Environmental Health Officer.

Fire Authority.

Have no representation to make.

12. Issues for Clarification

This Authority has requested clarification on the following points: -

The application shows no hours the premises are to be open to the members of the public for licensable activities. The applicant has been asked to provide these to the committee.

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 all documents submitted in respect of the application.

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

- Application Form
- Environmental Health Officer's Comments
- Copy of representation from interested party
- Location plan

Background papers were available for inspection in the Council Chamber, Brockington, 35 Hafod Road, 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....
- 5.75 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....

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.