

<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>20 JULY 2009</b>
<b>TITLE OF REPORT:</b>	<b>APPLICATION FOR GRANT OF PREMISES LICENCE 'BIG CHILL, EASTNOR CASTLE, DEER PARK, EASTNOR, LEDBURY, HR8 1RD.' - LICENSING ACT 2003</b>
<b>PORTFOLIO AREA:</b>	<b>ENVIRONMENT &amp; CULTURE</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Ledbury & Hope End

### **Purpose**

To consider an application for a premises licence in respect of the Big Chill, Eastnor Castle, Deer Park, Eastnor, Ledbury, HR8 1RD.

### **Key Decision**

This is not a Key Decision.

### **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 necessary 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 Licensing Policy.

### **Key Points Summary**

- One off premises licence.
- Licensed for 4 days (6 August to 10 August 2009).
- Licensed for up to 39,999.
- Representations from Responsible Authorities which have not been withdrawn as conditions have been agreed.
- No representations from interested parties.

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

## **Options**

- 1
  - 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 necessary 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.

## **Introduction and Background**

### **3      Background Information**

Applicant	<b>Chillfest Ltd</b> <b>257-259 Pentonville Road, London. N1 9NL</b>	
Solicitor	<b>Nil</b>	
Type of application:	Date received: <b>New Application</b>	28 Days consultation <b>03/03/09</b>

## **Previous Hearing**

- 4      This matter previously appeared before the committee on 8 May 2009 when the hearing was adjourned to allow the applicant and responsible authorities to agree conditions.

## **Licence Application**

- 5      The application for a new premises licence received representations from the Environmental Health Officer (EHO). Since that time the applicant and EHO have negotiated a set of conditions which will be attached to the licence and as a result the representation has been withdrawn.

## **Summary of Application**

- 6      The application is for a time limited licence to operate between 6<sup>th</sup> August and 10<sup>th</sup> August 2009.

- 7 The licensable activities applied for (all indoors and outdoors) are as follows during the times shown: -  
Plays, live music, recorded music, performance of dance, provisions for making music, provision of facilities for dancing, entertainment of a similar nature to the provision of facilities for music and dance: Thursday – Sunday 12:00 - 05:00.  
Films: Thursday 12:00 - 05:00 Friday - Sunday 10:00 – 05:00.  
Late Night Refreshment: Thursday – Sunday 23:00 - 05:00.  
Supply of Alcohol (On & Off Premises): Thursday – Sunday 11:00 - 05:00.

### **Summary of Representations**

- 8 Copies of the agreed conditions agreed between the applicant and responsible authorities can be found within the background papers.

### **Interested Parties**

- 9 No representations were received by interested parties.

### **Key Considerations**

- 10 To consider what action should be taken, if any, to promote the four licensing objectives in accordance with the recommendation.

### **Community Impact**

- 11 It is felt that any decision made will have a minimal impact on the Community.

### **Legal Implications**

- 12 Schedule 5 gives a right of appeal to: -

Rejection of applications relating to premises licences

1 Where a licensing authority—

- (a) rejects an application for a premises licence under section 18,
  - (b) rejects (in whole or in part) an application to vary a premises licence under section 35,
  - (c) rejects an application to vary a premises licence to specify an individual as the premises supervisor under section 39, or
  - (d) rejects an application to transfer a premises licence under section 44,
- the applicant may appeal against the decision.

Decision to grant premises licence or impose conditions etc.

2 (1) This paragraph applies where a licensing authority grants a premises licence under section 18.

(2) The holder of the licence may appeal against any decision—

- (a) to impose conditions on the licence under subsection (2)(a) or (3)(b) of that section, or

- (b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor).
- (3) Where a person who made relevant representations in relation to the application desires to contend—
- (a) that the licence ought not to have been granted, or
  - (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section,
- he may appeal against the decision.
- (4) In sub-paragraph (3) “relevant representations” has the meaning given in section 18(6).

13 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.

## **Consultees**

- 14 Responsible authorities and persons living within the vicinity or with a business interest within the vicinity of the premises.
- 15 A copy of the application was served on the responsible authorities. This was backed up by an email sent to them by the Licensing Authority.
- 16 The notice of application was displayed on the premises prior to the start of the consultation period and for a period of 28 days. In addition, notice of the application was required to be published in a newspaper which was circulated within the vicinity of the premises.
- 17 The applicant has produced a copy of that advertisement which complies with the legislation.

## **Appendices**

- 18
- 1. Application Form for Variations
  - 2. Public Representations
  - 3. Copy of newspaper article from the Ross Gazette

## **Background Papers**

**Background papers are available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford, 30 minutes before the start of the hearing.**

## **NOTES**

### **Licensing Authority's 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.