

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	15 MAY 2012
TITLE OF REPORT:	APPLICATION FOR VARIATION OF A PREMISES LICENCE 'THE EAGLE INN, 23 BROAD STREET, ROSS ON WYE, HR9 7EA' – LICENSING ACT 2003
PORTFOLIO AREA:	HEALTH & WELLBEING SERVICES

CLASSIFICATION: Open

Wards Affected

Ross on Wye West

Purpose

To consider an application for the variation of a premises licence in respect of 'The Eagle Inn, 23 Broad Street, Ross on Wye, HR9 7EA'.

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

- **Seven (7)** relevant representation from members of the public
- **Two (2)** representations from Responsible Authorities (Police & Trading Standards)

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	Mrs Maria Gooding The King Charles 2nd, 13 Broad Street, Ross on Wye, HR9 7EA.	
Representative	Nil	
Type of application: New Application	Date received: 23/03/2012	28 Days consultation 19/04/2012

Licence Application

- 4 The application for a variation of the premises licence has received representation and is brought before the committee for determination.

Current Licence

- 5 The premises is currently licensed as follows: -

<u>Live Music</u>	
Monday – Thursday	10:00 to 23:00
Friday and Saturday	10:00 to 23:30
Sunday	10:00 to 22.30

<u>Recorded Music</u>	
Sunday - Thursday	10:00 to 23:30
Friday and Saturday	10:00 to 00:00

<u>Late Night Refreshment</u>	
Friday and Saturday	23:00 to 00:00
Sunday – Thursday	23:00 to 23:30

<u>Supply/Sale of Alcohol</u>	
Sunday - Thursday	10:00 to 23:00
Friday and Saturday	10:00 to 23:30

Seasonal variations: None

Non standard timings: None

6 **History of the Premises**

In December 2010, in brief, the premises had the following hours and licensable activities authorised by the licence:

<u>Live Music</u>	
Monday – Thursday	10:00 to 23:30
Friday and Saturday	10:00 to 01:00
Sunday	10:00 to 22.30

<u>Recorded Music</u>	
Sunday - Thursday	10:00 to 00:00
Friday and Saturday	10:00 to 01:30

<u>Late Night Refreshment</u>	
Friday and Saturday	23:00 to 01:30

<u>Supply/Sale of Alcohol</u>	
Sunday - Thursday	10:00 to 23:30
Friday and Saturday	10:00 to 01:00

Non standard timings:

Friday, Saturday, Sunday and Monday on Bank holiday weekends
 St Georges Day, St Patricks Day, St Davids Day and St Andrews Day
 December 24th - 30th
 Sale of Alcohol 10:00 - 01:00

- 7 On 11th January 2011 the police launched a review in respect of the premises following a number of incidents of crime and disorder which occurred at the premises.
- 8 As a result the review appeared before the Licensing Committee on 7th March 2011 where the committee decided to curtail the hours of operation and amend the conditions attached to the licence.
- 9 The current hours and conditions shown on the licence remain unchanged since that review hearing.
- 10 The current premises licence holder took possession of the licence 3rd February 2012.

Summary of Application

11 The application requests to extend the above hours as follows:

Live Music, Recorded Music (Both Indoors & Outdoors) Supply of Alcohol (Both on & Off Premises)

Monday – Thursday	0900 to 0000
Friday & Saturday	0900 to 0100
Sunday	1000 to 0000

Late Night Refreshment (Indoors and Outdoors)

Sunday – Thursday	23:00 to 0000
Friday & Saturday	23:00 to 0100

Non Standard Timings:

Sunday before a Bank Holiday until 0100

New Years Eve from the End of permitted hours until the start of permitted hours on New Years Day

Summary of Representations

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

13 In total **seven (7) members of the public** have made representation to the application. Two (2) from Responsible Authorities (Trading Standards, the Police) Both of these have been accepted.

Key Considerations

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

Community Impact

15 The granting of the licence as applied for may have an impact on the Community.

Legal Implications

16 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.

17 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: -

18 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.

19 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.

20 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.

21 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).

22 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

23 Responsible authorities and persons living within the vicinity or with a business interest within the vicinity of the premises.

- 24 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.
- 25 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.
- 26 The applicant, at this time, has not produced a copy of the advertisement which is only correct in part.

Appendices

- 27
- a. Application Form
 - b. Public Representations
 - c. Police Representation
 - d. Trading Standards Representation
 - e. Decision Notice following review on 7th March 2011.

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.