

**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.

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.