

APPLICATION FOR A PREMISES LICENCE 'THE QUEENS HEAD, BRIDGE STREET, KINGTON, HR5 3DJ.' - LICENSING ACT 2003

Report By: Head Of Environmental Health and Trading Standards

Wards Affected:

Kington town

1. Purpose

To consider an application for a premises licence in respect of The Queens Head, Bridge Street, Kington

2. Background Information

Applicant	Neil Rex Morris	
Solicitor	N/A	
Type of application: New	Date received: 10/04/06	28 Days consultation 08/05/06

3. New Licence Application

The application for a licence has received representations by responsible authorities and interested parties. It is therefore now brought before committee to determine the application.

4. Summary of Application

The licensable activities applied for are: -

Live Music

Recorded Music

Performance of Dance

Provision of facilities for making Music

Provision of facilities for Dancing

Late Night Refreshment

Supply of Alcohol

Hours premises are open to the public

5. The following hours have been applied for in respect of Live Music, Recorded Music, Performance of Dance, of Provision of facilities for Making Music, of Provision of facilities for Dancing, Late Night Refreshment (*Indoors*): also hours the premises are open to the public -

All days of the week 1100 – 01.30

- 6 .The following hours have been applied for in respect of the supply of alcohol (*Both On & Off Premises*): -
All days of the week 11.00 – 01.00

7 **Non Standard hours**

The application requests ‘**non-standard**’ hours as follows: -

New Years Eve – 2400 hours

8 **Summary of Representations**

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

West Mercia Police

Have made representation with regard to last entry time and open containers being removed from the premises.

Environmental Health

Environmental Health Officer has made representations in relation to the application. This representation addresses the licensing objectives of Public Nuisance. and Public Safety

In respect of Public Nuisance they recommend an amendment to the operating hours in respect of all licensable activities. They also request further conditions to address this objective.

In respect of Public Safety additional conditions address the licensing objective of public safety.

Fire Authority.

The fire authority has commented on the application. and their recommendations are contained in the background papers

Interested Parties.

The Local Authority has received one (1) letter of representation in respect of the application, from a local resident.

The concerns relate to:

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

9 **Issues for Clarification**

This Authority has requested clarification on particular points from the party shown.

Applicant – Neil R Morris

Has been requested to provide clarification in respect of matters relating to the application as follows: -

Live Music , Recorded Music ,Performance of Dance, Provision of facilities for making Music ,Provision of facilities for making Dance
The application contains no details in respect of the above activities. The applicant has been asked to describe in detail the activities to be licensed under these sections.

10 **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.

11 **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.

12 **Background Papers**

- Public Representation
- Environmental Health & Trading Standards Comments
- Application Form

Background papers are 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.