

APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE NEW PRIORY HOTEL, STRETTON SUGWAS, HEREFORD, HR4 7AR' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Credenhill

1. Purpose

To consider an application for a variation to the premises licence in respect of The New Priory Hotel, Stretton Sugwas, Hereford.

2. Background Information

Applicant	Mr. Martin P. Vessey and Mrs. Amanda M. Vessey	
Solicitor	Mr. D. Backhouse, T.A. Matthews	
Type of application: Variation	Date received: 07/04/06	28 Days consultation 05/05/06

3. Current Premises Licence

A conversion licence has been issued as follows:-

Licensable activity	Hours
Sale of alcohol on and off the premises	Standard National Hours Monday – Saturday 10.00 am – 01.00 pm Sunday 12 noon – 15.00 – 19.00 – 00.00 On Sundays persons taking part in substantial meals may be served alcoholic beverages between the hours of 15.00 and 19.00.

The advertisement regarding this application has been submitted to the Licensing Department and is attached to the background papers for reference.

4. Variation Licence Application

The application for a variation to the premises licence has received representations by responsible authorities and also members of the public. It is therefore now brought before the sub-committee for determination.

5. Summary of Application

The proposed variation applied for is to vary the hours and location for the provision of regulated entertainment and to vary the hours when alcohol can be sold. The Application also requests the use of the gardens for regulated entertainment and as a beer garden.

To authorise the supply of alcohol between the hours of 15.00 – 19.00.

To authorise the provision of regulated entertainment between the hours of 12.00 - 01.00 on Saturdays and Sundays before a Bank Holiday, 12.00 - 24.00 on Bank Holiday Monday and on Sundays other than Sundays before a Bank Holiday.

To authorise the use of the gardens for the supply of alcohol and regulated entertainment e.g. wedding receptions, garden parties, light opera, classical concerts, jazz concerts. Saturdays and Sundays before a Bank Holiday Monday 12.00 – 01.00. Sundays not before a Bank Holiday Monday and on a Bank Holiday Monday 12.00 – 24.00.

To use the gardens as a beer garden for the supply and consumption of alcohol.

6. The following hours have been applied for in respect of Plays & Films (both indoors and outdoors)

Monday to Saturday 12.00 – 01.00

Sunday 12.00 – 24 00

7. The following hours have been applied for in respect of Live Music, Recorded Music, Performance of Dance, Provision of Facilities for Making Music, & Dancing, Facilities for Entertainment of a similar description (both indoors and outdoors)

Monday to Friday 20.00 – 01.00

Saturday 12.00 – 01.00

Sunday 12.00 – 24.00

8. The following hours have been applied for in respect of the supply of Alcohol (both on and off the premises)

Monday to Saturday 10.00 – 01.00

Sunday 12.00 – 24.00

9. The hours that the premises will be open to members of the public

Monday to Saturday 10.00 – 01.30

Sunday 10.00 – 00.30

10 Non Standard hours

The application applies for 'non-standard' hours.

The Licensed hours requested on a Sunday before a Bank Holiday Monday are 12.00 to 01.00 and on a Bank Holiday Monday 12.00 to 24.00.

11 Summary of Representations

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

West Mercia Police

The Police have no representations to make on the variation to hours on Sunday and for consistency would seek that the condition on current licence provision of alcohol on a Sunday for those partaking in a substantial and consumptions of alcohol in the gardens. However they have concerns on how the applicant intends to ensure that the Crime and Disorder objectives are addressed. Three Conditions have been submitted and are contained within the background papers.

Environmental Health

Environmental Health Officers have made representations in relation to the application in respect of the prevention of Public Nuisance they seek conditions in relation to the prevention of noise and where and when music can be played at the premise. This representation addresses the licensing objectives prevention of Nuisance and Public Safety.

Environmental Health Pollution have reported that three separate complaints were received 9 – 10th July 2005 regarding loud music. There are concerns over the playing of live music and recorded music until 01.00 as there are residential properties nearby. A number of conditions have been recommended.

Fire Authority.

The fire authority has no objections.

Interested Parties.

The Local Authority has received nine (9) letters of representation in respect of the application, from local residents. A summary can be found within the background papers.

The concerns relate to:

- Prevent Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protect Children from Harm

12 Issues for Clarification

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

The Applicants – Mr and Mrs Vessey

In respect of matters contained within their application regarding the following activities: -

How the applicant intends to promote Crime and Disorder at his premises whilst at the same time seeks to licence the a substantial garden area for both

sale and consumption of alcohol and regulated entertainment.
How the applicant intends to prevent over crowding. And Prevention of Public Nuisance

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 have regard to all documents specified within the DCMS Guidance.

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**

- Public Representation forms
- Environmental Health & Trading Standards Comments
- Application Form
- Any other associated 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**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.