

<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>17 DECEMBER 2009</b>
<b>TITLE OF REPORT:</b>	<b>APPLICATION FOR GRANT OF PREMISES LICENCE 'CUSOP VILLAGE HALL, LOWER MEAD, HAY-ON-WYE, HEREFORD, HR3 5RW.' - LICENSING ACT 2003</b>
<b>PORTFOLIO AREA:</b>	<b>ENVIRONMENT &amp; CULTURE</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Golden Valley North

### **Purpose**

To consider an application for a premises licence in respect of the Cusop Village Hall, Lower Mead, Hay-on-Wye, Hereford, HR3 5RW.

### **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**

- 1 Public Representations against the application signed by 7 local residents
- 2 responses from the Responsible Authorities with 'No representation to make'.

### **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>Cusop Village Hall</b> <b>Woodlands, Cusop Dingle, Hay-on-Wye, Hereford, HR3 5RQ</b>	
Solicitor	<b>N/A</b>	
Type of application: <b>New Application</b>	Date received: <b>23/10/09</b>	28 Days consultation <b>19/11/09</b>

### Licence Application

4 The application for a new premises licence has received representations and is brought before the committee for determination.

### Summary of Application

5 The application is for the following activities indoors only: -  
Films and Indoor Sporting Events,

6 The application applies for the following activities indoors and outdoors: -  
Plays, Live Music, Recorded Music, Performance of Dance, Anything of a similar nature to live/recorded music or performance of dance, the Provision of facilities for making music and dancing or entertainment facilities of a similar nature.

The following hours have been applied for in respect of: -

All licensable activities  
All days of the week 09:00 to 23:00

7 The premises to be open to the public:-

All days of the week 09:00 to 23:00

8 There is no application for non-standard timings.

### **Summary of Representations**

9 A copy of the representation can be found within the background papers.

10 Representations have been received from the Police and Fire Authority as responsible authorities and neither have any comment to make.

11 1 Letter of representation against the application has been received which is signed by 7 local residents.

12 This in main addresses the licensing objective of 'prevention of public nuisance'.

### **Key Considerations**

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

### **Community Impact**

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

### **Legal Implications**

15 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.

16 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.

17 In this case it was summed up that: -

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.

18 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.

19 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'.

20 It was further said in this case that the Licensing Authority have a duty:

“For some premises, it is entirely possible that no measures will be needed to promote one or more of the licensing objectives, for example, because they are adequately dealt with by other existing legislation.”

- 21 It was also said that;  
‘to translate the proposals contained in the operating schedule to promote the licence objectives into clear and understandable conditions’.
- 22 The Committees attention is therefore drawn to Section P – Page 14 of the application (Appendix 1) where the applicant offers additional conditions.
- 23 The Licensing Authority will transpose the following conditions offered onto the premises licence, if granted, as shown below: -

*General*

The management committee must ensure that any hirer is supplied with a copy of the licence at the commencement of any licensable activity

*Prevention of Crime and Disorder*

Only plastic glasses will be used outside of the premises

*Public Safety*

The management committee must ensure that the maximum capacity permitted in the premises based on their risk assessment is not exceeded.

*Prevention of Public Nuisance*

Prominent, clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

*Protection of Children from Harm*

Proven methods shall be employed for the prevention of unlawful supply, consumption and use of alcohol

The premises will operate a Challegne 25 policy

No person under 18 must be permitted in the premises unless accompanied by an adult.

No gambling or entertainment of an adult or sexual nature must be permitted on the premises.

- 24 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).

25 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

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

27 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.

28 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.

29 The applicant has produced a copy of that advertisement. Whilst this covers the main application no reference has been made to the provision of regulated entertainment outside.

## Appendices

30 Appendix 1. Application  
Appendix 2. Public Representations

## 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.**