

A G E N D A

Regulatory Sub Committee

Date: **Tuesday, 6th September, 2005**

Time: **10.00 a.m.**

Place: **The Council Chamber, Town Hall,
St. Owen's Street, Hereford**

Notes: Please note the **time, date** and **venue** of
the meeting.

For any further information please contact:

*Ricky Clarke, Members' Services,
Tel: 01432 261885 Fax: 01432 260286*

email: rclarke@herefordshire.gov.uk

**County of Herefordshire
District Council**

AGENDA

for the Meeting of the Regulatory Sub Committee

To: Councillors J.W. Hope MBE, R.I. Matthews and D.C. Taylor

	Pages
1. ELECTION OF CHAIRMAN To elect a Chairman for the hearing.	
2. APOLOGIES FOR ABSENCE To receive apologies for absence.	
3. NAMED SUBSTITUTES (IF ANY) To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
4. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
5. THE LION HOTEL, 52 BRIDGE STREET, KINGTON, HEREFORDSHIRE, HR5 3DJ To consider an application for variation of the premises licence in respect of The Lion Hotel, 52 Bridge Street, Kington, Herefordshire, HR5 3DJ.	5 - 10
6. THE GOLDEN CROSS INN, SUTTON ST NICHOLAS, HEREFORD. To consider an application for variation of the premises licence in respect of the Golden Cross Inn, Sutton St Nicholas, Hereford.	11 - 16
7. SELLACK VILLAGE HALL, SELLACK, ROSS ON WYE To consider an application for variation of the premises licence in respect of Sellack Village Hall, Sellack, Ross on Wye.	17 - 22
8. COLWALL VILLAGE HALL, MILL LANE, COLWALL, NR LEDBURY, WR13 6EQ. To consider an application for variation of the premises licence in respect of Colwall Village Hall, Mill Lane, Colwall, Nr Ledbury, WR13 6EQ.	23 - 28

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- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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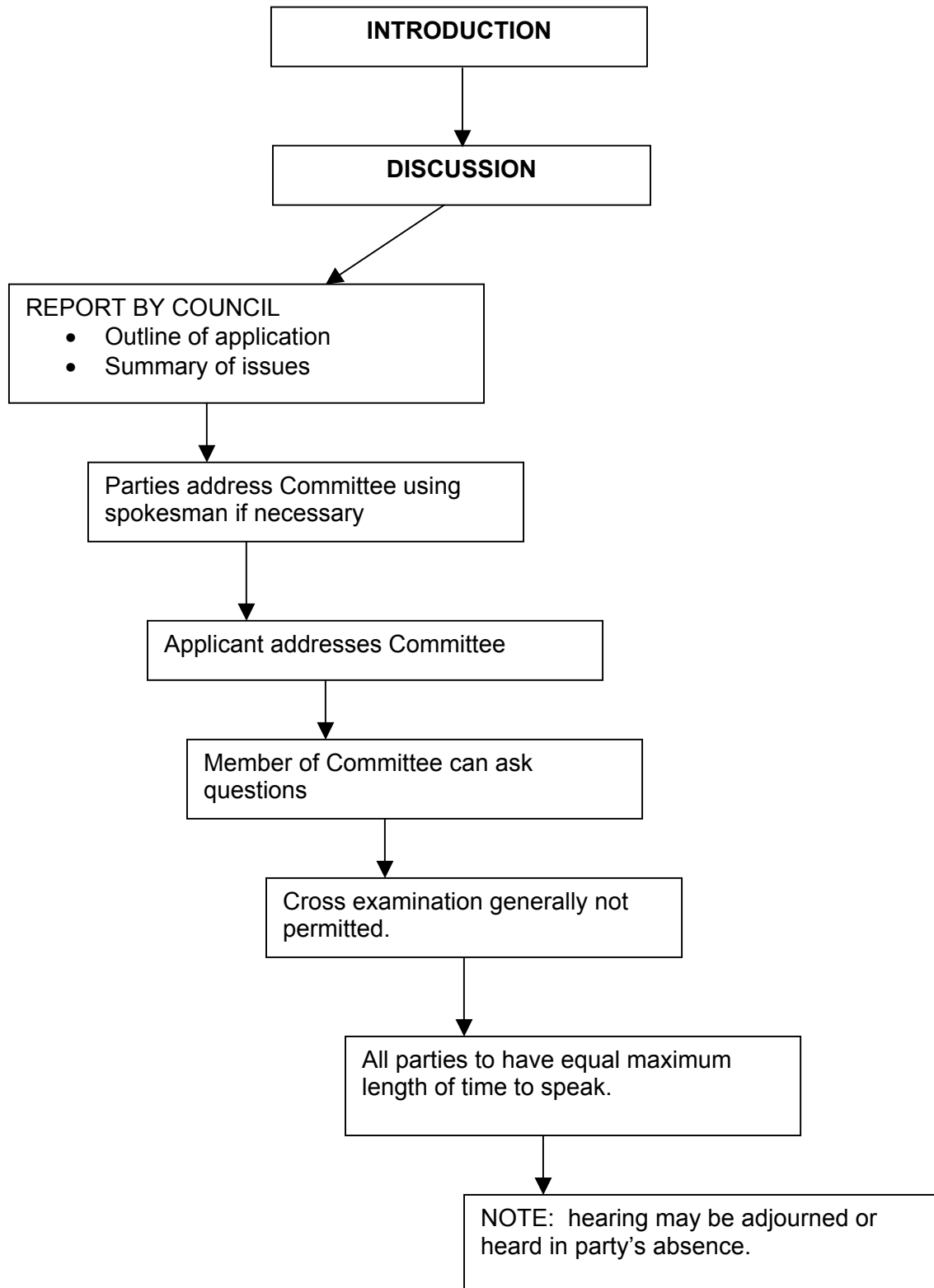
Agenda and individual reports can be made available in large print, Braille or on tape. Please contact the officer named below in advance of the meeting who will be pleased to deal with your request.

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LICENCING HEARING FLOW CHART



**APPLICATION FOR VARIATION OF PREMISES
LICENCE IN RESPECT OF THE LION HOTEL, 52
BRIDGE STREET, KINGTON, HEREFORDSHIRE, HR5
3DJ - LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Kington

Purpose

1. To consider an application for variation of the premises licence in respect of The Lion Hotel, 52 Bridge Street, Kington, Herefordshire, HR5 3DJ.

Background Information

2.

Applicant	Mr Neil Morris		
Solicitor	N/A		
Premise	The Lion Hotel, 52 Bridge Street, Kington HR5 3DJ		
Type of application: Variation	Date received: 18/07/05	28 Days consultation 15/08/05	Issue Deadline: 18/9/05

Conversion Licence Application

3. A conversion licence will be issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon to Sat - 1100 to 2300 Sun - 1200 and 2230 Good Friday – 1200 midday to 2030 Christmas day – 1200 Midday – 1500 & 1800 – 2000 New Years Eve 2400 Hours (as deregulated)

With the following condition attached:-

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (mentioned above)

The premises do not hold a current public entertainment licence.

Variation Licence Application

4. The application for a variation has received representations by responsible authorities and is therefore brought before the sub-committee for determination.

Summary of Application

5. The licensable activities applied for are: -
Live Music (Indoors)
Recorded Music (Indoors)
Performances of dance (Indoors)
Provision of facilities for making music (indoors)
Provision of facilities for dancing (Indoors)
 Supply of Alcohol (*Both on and off premises*)
 Hours premises open to the public (Not licensable on it's own)
(Activities in bold are those not previously licensed)
6. The following hours have been applied for in respect of Live Music (*Indoors only*):-
- | | |
|--------------------|----------------------|
| Monday to Saturday | 1100 – 0100 |
| Sunday | 1200 – 0000 midnight |
7. The following hours have been applied for in respect of recorded music (*Indoors only*):-
- | | |
|--------------------|----------------------|
| Monday to Saturday | 1100 – 0100 |
| Sunday | 1200 – 0000 midnight |
8. The following have been applied for in respect of performances of dance (*indoors only*):-
- | | |
|--------------------|----------------------|
| Monday to Saturday | 1100 – 0100 |
| Sunday | 1200 – 0000 midnight |
9. The following hours have been applied for in respect of provision of facilities for making music and provision of facilities for dancing (*indoors only*):-
- | | |
|--------------------|----------------------|
| Monday to Saturday | 1100 – 0100 |
| Sunday | 1200 – 0000 midnight |
10. The following hours have been applied for in respect of supply of alcohol:-
- | | |
|--------------------|----------------------|
| Monday to Saturday | 1100 – 0100 |
| Sunday | 1200 – 0000 midnight |
11. The hours that the premises will be open to members of the public:-
- | | |
|--------------------|-------------|
| Monday to Saturday | 1100 - 0130 |
| Sunday | 1200 – 0030 |

12. Non Standard hours

The application applies for 'non-standard' hours.

In respect of Live Music, Recorded Music, Performances of Dance, Provision of facilities for making music and Provision of facilities for dancing, the applicant has stated the following:- 'When hours for the sale of alcohol are extended on Bank Holidays..'

In respect of the supply of alcohol:-

1100 New Years Eve to start of permitted hours New years day

Bank holidays 1100 – 0100

Sunday before Bank Holiday 1100 - 0100

In respect of 'Hours the premises are open to the public':-

Closing on the non-standard days as listed in Section M with a 30 minute drinking up time added on.

13. Summary of Representations**West Mercia Police**

Have no relevant representations to make but would like clarification on the patio storage area. Planning permission is sought to add this area to the premises licence therefore it is not considered appropriate to include these areas under the application to vary. The Applicant has withdrawn this area from the application with the appropriate plan until permission has been granted.

Fire Authority

The fire authority have no objection.

Environmental Health

Environmental Health Officers have 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 seek conditions in relation to the prevention of noise.

With regards to public safety, they recommend some general conditions as well as conditions in relation to; Gas & Electrical Safety, Fire Safety, Lighting, and First Aid. With regard to the licensable activities of Indoor Sporting Events and Films they recommend a further two conditions. The applicant has subsequently agreed to all recommended conditions.

Interested Parties

The Local Authority has received 11 letters of representation in respect of the application, and general area from residents.

The concerns relate to:

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

14. **Issues for Clarification**

The Authority has requested clarification from the applicant, Neil Morris.

15. **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.

16. **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.

17. **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, St Owens Street 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...

5.74 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...

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.

APPLICATION FOR VARIATION OF PREMISES LICENCE 'GOLDEN CROSS INN, SUTTON ST NICHOLAS, HEREFORD, HR1 2JO' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Sutton Walls

1. Purpose

To consider an application for variation of the premises licence in respect of The Golden Cross Inn, Sutton St Nicholas, Hereford.

2. Background Information

Applicant	John Patrick Murray		
Solicitor	N/A		
Premise	Golden Cross Inn, Sutton St Nicholas, Hereford, HR1 2JO		
Type of application: Variation	Date received: 20/07/05	28 Days consultation 17/08/05	Issue Deadline: 20/09/05

3. Conversion Licence Application

A conversion licence has been issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises	Standard National Hours Monday – Saturday 1100 am – 2300 pm Sunday 12 noon – 2230 pm Restaurant area has supper licence 20 minutes drinking up time

With the following condition attached:-

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (Drinking up time).

The Premises currently does not have a Public Entertainment Licence.

4. **Variation Licence Application**

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

5. **Summary of Application**

The licensable activities applied for are: -

Live Music (*Both Indoors & Outdoors*)*

Recorded Music (*Indoors*)*

Supply of Alcohol (*Both on and off the premises*)

Hours premises open to the public (Not licensable on it's own)

(* Not previously licensed)

6. The following hours have been applied for in respect of live music:- (both indoors and outdoors)

Monday to Sunday 1000 – 2400 midnight

7. The following hours have been applied for in respect of recorded music- (both indoors and outdoors)

Monday to Sunday 0001 – 2401

8. The following hours have been applied for in respect of supply of alcohol (both indoors and outdoors)

Monday to Sunday 0001 - 2401

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

Monday to Sunday 0001 - 2401

10. **Non Standard hours**

The application applies for '**non-standard**' hours.

In respect of Live and Recorded Music, which will be amplified. Indoor music will be conducted in the daytime or evening. Outdoor music will only be conducted occasionally, with the event ending before sundown and only if its done with the approval of immediate neighbours.

Additional information in the notes

11. **Summary of Representations**

West Mercia Police

Have made comments and representations against the applicant(s) but would like clarification on the exact daily timings. To date, the applicant has not agreed to modify his application as stated in his e-mail of 18th August, 2005.

Fire Authority

The Fire Authority have no objections.

Environmental Health

Environmental Health Officers have made representations in relation to the application. This representation addresses the licensing objectives of Public Nuisance, Public Safety and The Protection of Children from Harm.

In respect of Public Nuisance they seek conditions in relation to the prevention of noise and where and when music can be played at the premise.

With regards to public safety, they recommend some general conditions as well as conditions in relation to; Gas & Electrical Safety, Fire Safety, Lighting and First Aid. With regard to the licensable activities of Indoor Sporting Events and Films they recommend a further two conditions.

In respect of Protection of Children from harm, they comment that the applicant needs to ensure the prevention of underage sales.

Interested Parties

The Local Authority has received 6 letters of representation in respect of the application, from local residents.

The concerns relate to:

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

12. Issues for Clarification

The applicant John P Murray has been requested to provide clarification on operating times not stated in his application , as follows -

Under proposed variation (on page 8 of the application form) clarification has been requested on the statement "as and when needed "

and The hours of operation for recorded music as an entertainment.

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, Town Hall, St Owens Street, Hereford.

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....

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.

APPLICATION FOR VARIATION OF PREMISES LICENCE 'SELLACK VILLAGE HALL, SELLACK, ROSS ON WYE. ' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Llangarron

1. Purpose

To consider an application for variation of the premises licence in respect of Sellack Village Hall, Sellack, Ross on Wye.

2. Background Information

Applicant	Gordon Roy Francis LEWIS & Rose KIMBLE		
Solicitor	Thorpe & Thorpe, Ross on Wye		
Premise	Sellack Village Hall, Sellack, Ross on Wye.		
Type of application: Conversion Variation	Date received: 17/07/05	28 Days consultation 10/08/05	Issue Deadline: 16/09/05

Both the advertisement and the current licence have been seen and accepted.

3. Conversion Licence Application

The premises currently holds a Public Entertainment Licence and a Theatre Licence. A conversion licence, has been issued as follows; -

Licensable activity	Hours	
Public Entertainment (Music, Singing & Dancing)	Mon-Sat	1100 to 0100 hours

4. Variation Licence Application

The application for a variation has received no representation from responsible authorities but one from a member of the public. It is therefore brought before the committee for determination.

5. Summary of Application

The licensable activities applied for are: -

Plays*

Films *

Indoor Sporting Events*

Live Music

Recorded Music

Performance of Dance *
 Anything of a similar nature to live or recorded music or performance of dance*
 Provision for facilities for making of music *
 Provision of facilities for dancing *
 Late Night refreshment *
 Hour's premises open to the public (Not licensable on it's own)
 (* Not previously licensed)

6. The following hours have been applied for in respect Plays, Films, Indoor Sporting Events, Live Music, Recorded Music, Performance of Dance, Anything or a Similar description to Live or Recorded Music or Performance of Dance, Provision of Facilities for making music or for, Provision of Facilities for dancing (all to take place indoors) and Late Night Refreshment (*Indoors & Outdoors*): -
- | | |
|--------------------|-------------|
| Monday to Saturday | 1100 – 0100 |
| Sundays | 1100 – 2400 |

9. **Summary of Representations**

West Mercia Police

None

Fire Authority

None

Environmental Health

None

Interested Parties

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

The concern relates to: -

- Prevention of Public Nuisance

15. **Removal of Conditions**

None has been applied for.

17. **Issues for Clarification**

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

The Applicants – Gordon Roy Francis LEWIS & Rose KIMBLE

Have been requested to provide clarification in respect of matters contained within their application, regarding the following activities: -

The Post Code of The Premises

Indoor Sporting Events

Whether it is intended that the premises should be used for any other sporting event other than dog shows.

If it is intended to be used for sporting events whether spectators will be seated or not. If seated the number of seats to be provided.

Performance of Dance

Whether the premises will be used a performance of dance which will take place in the presence of an audience and will be intended to be provided for entertaining that audience.

They have also been asked to provide information as to how they intend to operate the premises, which should include whether there will be any change in their current method of operation.

18. 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.

19. 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.

20. Background Papers

- Public Representation
- Application Form

Background papers are available for inspection in Council Chamber, Town Hall, 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....

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) a performance of a play,
- (b) an exhibition of a film,
- (c) an indoor sporting event,
- (d) a boxing or wrestling entertainment,
- (e) a performance of live music,
- (f) any playing of recorded music,
- (g) a performance of dance,
- (h) 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.

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.

APPLICATION FOR VARIATION OF PREMISES LICENCE 'COLWALL VILLAGE HALL, MILL LANE, COLWALL, NR LEDBURY, WR13 6EQ' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Hope End

1. Purpose

To consider an application for variation of the premises licence in respect of Colwall Village Hall, Mill Lane, Colwall, Nr Ledbury, WR13 6EQ.

2. Background Information

Applicant	Colwall Village Hall Management Committee		
Solicitor	N/A		
Premise	Colwall Village Hall, Mill Lane, Colwall, Nr Ledbury, WR13 6EQ		
Type of application: Conversion Variation	Date received: 15/07/05	28 Days consultation 12/08/05	Issue Deadline: 14/09/05

Both the advertisement and the current licences have been seen and accepted.

3. Conversion Licence Application

The premises currently holds a Public Entertainment Licence and a Theatre Licence. A conversion licence, has been issued as follows; -

Licensable activity	Hours	
Public Entertainment (Music, Singing & Dancing)	Mon-Sat	1100 to 0100 hours
	Sun	1100 to 2230 hours for musical entertainment only
	Sun	1900 to 2230
Theatre	Unspecified Hours	

4. Variation Licence Application

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

5. Summary of Application

The licensable activities applied for are: -

Films *

Indoor Sporting Events*

Late Night refreshment *

Supply of Alcohol *

Hour's premises open to the public (Not licensable on it's own)

(* Not previously licensed)

6. The following hours have been applied for in respect of Films (*Indoors only*), Late Night Refreshment (*Indoors only*) and Indoor Sporting Events: -

Monday to Saturday 1100 – 0100

Sundays 1100 – 2230

7. The following hours have been applied for in respect of the Supply of Alcohol (*On premises only*): -

Monday to Saturday 1100 – 0030

Sunday 1100 – 2200

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

Monday to Saturday 0700 – 0100

Sundays 0800 – 2230

9. Summary of Representations

West Mercia Police

Have made representation in respect of the application, which they believe should be dealt with by way of a new application.

The also comment upon the fact that the Designated Premises Supervisor (DPS) is the same as that shown on The Crown Inn, Colwall.

They feel that they are unable to make any representation without full knowledge as how it is intended to operate the premises. They state that there is nothing to stop them operating as a public house.

They therefore request the application for variation in respect of the sale of alcohol be refused.

Fire Authority

The fire authority has no objection.

Environmental Health

Environmental Health Officers have 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 seek conditions in relation to the prevention of noise.

With regards to public safety, they recommend some general conditions as well as conditions in relation to: Gas & Electrical Safety, Fire Safety, Lighting, and First Aid.

At the time of this report no negotiation had taken place.

Interested Parties

The Local Authority has received 2 letters of representation in respect of the application, from local residents

The concerns relate to:

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

10. **Removal of Conditions**

The applicant has applied to remove all conditions attached to their current Public Entertainment Licence and Cinema Licence.

11. **Issues for Clarification**

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

The Applicant – Colwall Village Hall Committee

Has been requested to provide clarification in respect of matters contained within their application, regarding the following activities: -

Films

Details of the type and certification of the films to be shown on the premises.

Whether it is their intention to use the premises on every day of week and for the hours shown within the application.

Indoor Sporting Events

The type of games the premises will be used for and whether spectators will be seated or not. If seated the number of seats to be provided.

Late Night Refreshment

The type of late night refreshment to be provided.

Supply of Alcohol

Whether or not it is their intention that alcohol will be supplied on every day of the week during the times shown.

They have also been asked to provide information as to how they intend to operate the premises, which should include whether there will be any change

in their current method of operation and whether it is their intention to operate the premises as a public house.

12. **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.

13. **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.

14. **Background Papers**

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

Background papers are available for inspection in Committee Chamber, The Town Hall, 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....

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);

Pub games

- 5.15 Games commonly played in pubs and social and youth clubs like pool, darts, table tennis and billiards may fall within the definition of indoor sports in Schedule 1, but normally they would not be played for the entertainment of spectators but for the private enjoyment of the participants. As such, they would not normally constitute the provision of regulated entertainment, and the facilities provided (even if a pub provides them with a view to profit) do not fall within the limited list of entertainment facilities in that Schedule (see paragraph 5.11 above).

It is only when such games take place in the presence of an audience and are provided to, at least in part, entertain that audience, for example, a darts championship competition, that the activity would become licensable.

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.

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.