

A G E N D A

Regulatory Sub Committee

Date: **Wednesday, 28th 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 Mrs. S.P.A. Daniels, D.J. Fleet and Brig. P. Jones CBE

| | 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. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE BLACK LION, BRIDGE STREET, HEREFORD, HR4 9DG.' To consider an application for variation of the premises licence in respect of The Black Lion, Bridge Street, Hereford, HR4 9DG. | 5 - 12 |
| 6. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE RIVERSIDE INN, 20 WYE STREET, ROSS-ON-WYE, HR9 7BT.' To consider an application for variation of the premises licence in respect of The Riverside Inn, 20 Wye Street, Ross-on-Wye, HR9 7BT. | 13 - 18 |
| 7. APPLICATION FOR VARIATION OF PREMISES LICENCE 'TIME, 100 COMMERCIAL ROAD, HEREFORD, HR1 2BJ.' To consider an application for variation of the premises licence in respect of Time, 100 Commercial Road, Hereford, HR1 2BJ. | 19 - 26 |
| 8. APPLICATION FOR VARIATION OF PREMISES LICENCE 'DORSTONE VILLAGE HALL, DORSTONE, HEREFORD, HR3 6AN.' To consider an application for variation of the premises licence in respect of Dorstone Village Hall, Dorstone, Hereford, HR3 6AN. | 27 - 34 |

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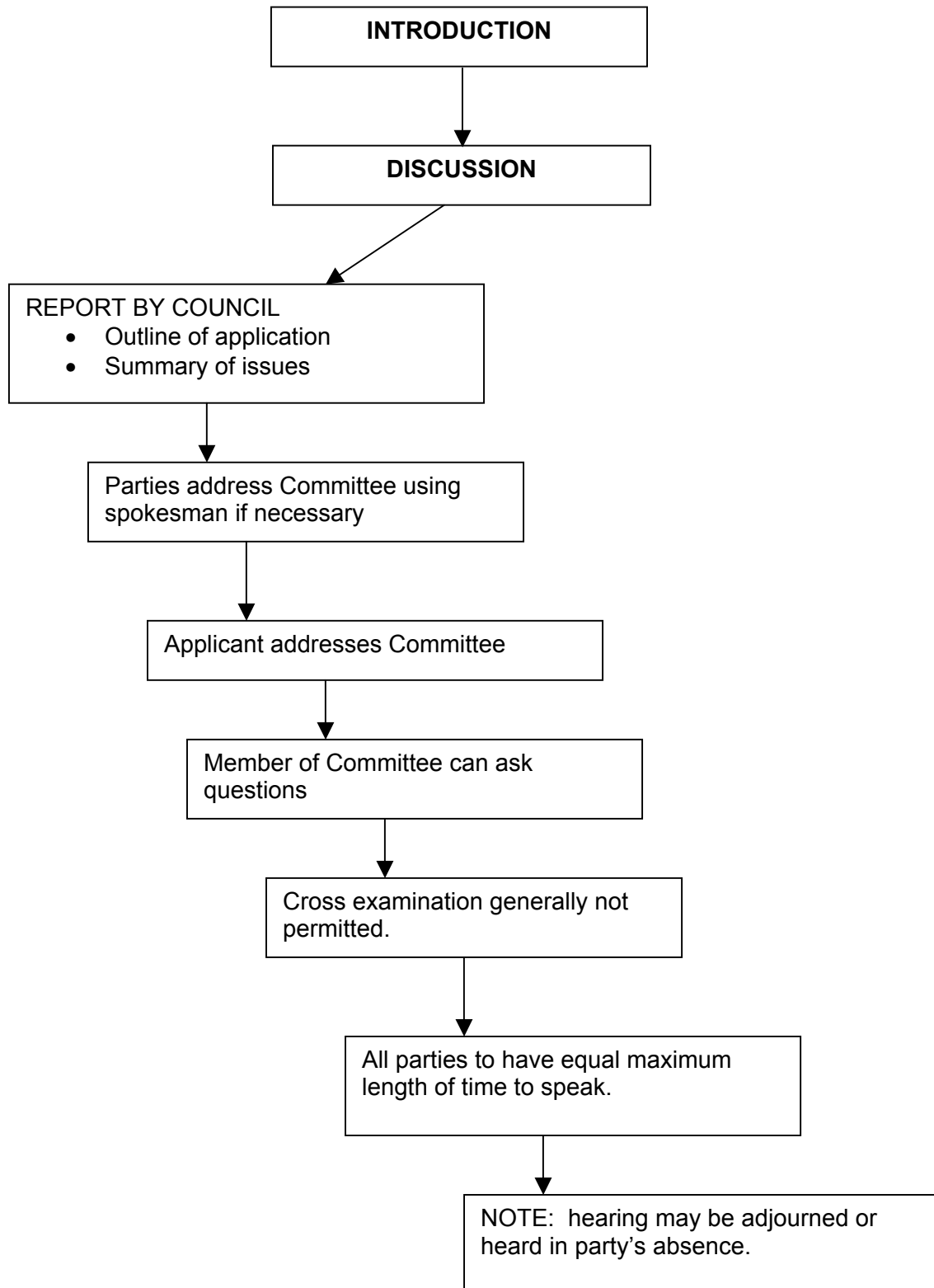
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LICENCING HEARING FLOW CHART



APPLICATION FOR VARIATION OF PREMISES LICENCE IN RESPECT OF 'THE BLACK LION' BRIDGE STREET, HEREFORD, HR4 9DG'. - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Central

1. Purpose

To consider an application for variation of the premises licence in respect of The Black Lion, Bridge Street, Hereford, HR4 9DG.

2. Background Information

| | | | |
|--|--|---|------------------------------------|
| Applicant | Christopher J. Chenery and Mark Chenery | | |
| Solicitor | N/A | | |
| Type of application: Variation | Date received: 03/08/05 | 28 Days consultation 31/08/05 | Issue Deadline: 03/10/05 |

The Justices Licence has been seen and accepted. The advertisement for the premises has not been seen.

3. Conversion Licence Application

The premises currently only holds a Justices On Licence. A conversion licence has been issued as follows; -

| Licensable activity | Hours |
|---|---|
| Sale of alcohol on and off the premises | Mon to Sat 10:00 – 23:00 hours |
| | Sunday 12:00 – 23:30 hours |
| | New Year's Eve 10:00 – 23:00 New Year's Day |
| | Good Friday and Christmas Day |
| | 12:00 – 15:00 and 19:00 – 22:30 |

4. Variation Licence Application

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

5. Summary of Application

The licensable activities applied for are: -

Films*

Indoor Sporting Events*

Live Music

Recorded Music

Performance of Dance *

Anything of a similar description to live/recorded music or performance of dance *

Provision for facilities for making music *

Provision for facilities for dance *

Supply of Alcohol

(*Not previously licensed)

6. The following hours have been applied for in respect of (*Indoors only*) Films, Indoor Sporting Events, Recorded Music,
- | | |
|---------------------|-------------------|
| Sunday to Thursday | 1100 – 0030 hours |
| Friday and Saturday | 1100 – 0230 hours |

7. The following hours have been applied for in respect of (*Indoors only*) Live Music, Performance of dance, Provision of facilities or making music, Provision of facilities for dancing,
- | | |
|---------------------|-------------------|
| Monday to Thursday | 2300 – 0000 hours |
| Friday and Saturday | 2330 – 0100 hours |
| Sunday | 1100 – 0000 |

8. In respect of hours premises open to the public: -
- | | |
|---------------------|-------------------|
| Sunday to Thursday | 1100 – 0030 hours |
| Friday and Saturday | 1100 – 0230 hours |

9. Seasonal Variations

The following seasonal variation has been applied for in respect of Films, Indoor Sporting Events, Recorded Music:-

1100 to 0230 the following morning from December 1st to December 30th

The following seasonal variation has been applied for in respect of Live Music, Performance of Dance, Provision of facilities or making music and the Provision of facilities for dancing:-

1100 to 0100 the following morning from December 1st to December 30th

The following seasonal variation has been applied for in respect of anything of a similar description to live/recorded music or performance of dance and the supply of alcohol: -

1100 to 0200 the following morning from December 1st to December 30th.

10. Non Standard hours

The following non-standard times have been applied for in respect of Films, Indoor Sporting Events, Recorded Music:-

When hours for sale of alcohol are extended on Bank Holidays and "Event Days", these hours are also extended from 0000 to 0230 hours.

The following non-standard times have been applied for in respect of Live Music, Performance of dance, Anything of a similar description to live/recorded music or performance of dance, Provision of facilities or making music, Provision of facilities for dancing:-

When hours for sale of alcohol are extended on Bank Holidays and "Event Days", these hours are also extended from 0000 to 0100 hours.

The following non-standard times have been applied for in respect of the supply of alcohol:-

1100 New Year's Eve – 0500 New Year's Day

1100 – 0200 on Friday, Saturday, Sunday and Monday on bank holiday weekends

1100 – 0200 on St George's Day, St David's Day, St Patrick's Day & St Andrew's Day, "Event Days"

11. Conditions requested to be removed

There is no request for removal of any conditions

12. Summary of Representations

Any suggested conditions or representations can be found within the background papers.

West Mercia Police

Have made representation in respect of the application and request a total of nine conditions be applied to the licence to prevent crime & disorder.

They also seek clarification in respect of event days.

Environmental Health

Environmental Health Officers have made representations in relation to the application. This representation addresses the licensing objectives of Public Safety.

In respect of Public Safety they seek conditions in relation to a fire risk assessment.

Have made representation in respect of the application and request conditions to address public safety.

Fire Authority

Have no representation to make.

Interested Parties

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

The concerns relate to:-

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

13. Issues for Clarification

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

The Applicants – Christopher and Mark CHENERY

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

Films

The type and certification of the videos to be shown on the premises

Indoor Sporting Events

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

Live Music, Performance of Dance, Anything of a similar nature to live or recorded music or performance of dance, Provision of Facilities for Making Music and Provision of facilities for dancing.

The application states that all of the above licensable activities Live Music will only be provided between the hours of 2330 to 0000 on a Monday to Thursday, from 2330 to 0100 on Friday and Saturdays and from 1100 to 0000 on Sundays. Confirmation is therefore sought that none of these activities will be provided in the premises outside these times.

Recorded Music

Within the further details of this section it is stated that 'Noise will be reduced to background levels during the wind down period. Clarification has therefore been sort as to the time the recorded music will commence and the time the background music will begin.

Performance of Dance

Whether it is intended to provide performance of dance other than as given in the further details of the application form

Anything of a similar nature to live or recorded music or performance of dance.

Whether it is intended to provide any other activities other than that shown in the further details.

Seasonal Variations

It has been noted that a seasonal variation between 1st and 30th December up to 0230 hours. The reason for applying for this has been requested.

Films, Indoor Sporting Events and Recorded Music.

The application would appear to apply for these activities to be licensed until the same time that the premises are to close. Clarification has therefore been sort as to how it is intended to close the premises when both the closing time and finishing time coincide.

Event Days

Throughout the application reference is made to 'event days'. Clarification has been sort as to what 'event days' are.

14. **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.

15. **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.

16. **Background Papers**

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

Background papers are available for inspection in the 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....

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).

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.

Relaxation of opening hours for local, national and international occasions

- 6.11 It should normally be possible for applicants for premises licences and club premises certificates to anticipate special occasions which occur regularly each year – such as bank holidays – and to incorporate appropriate opening hours for these occasions in their operating schedules. Similarly, temporary event notices – in respect of which a personal licence holder may give fifty each year – should be sufficient to cover events like Golden Wedding Anniversaries or 21st Birthday parties which take place at premises which do not have a premises licence or club premises certificate. However, with the passage of time exceptional events of local, national or international significance will arise which could not or have not been anticipated. Such events can give rise to the need to vary the conditions of large numbers of premises licences and club premises certificates. In such circumstances, it will be open to the Secretary of State to make a licensing hours order to provide for premises with a premises licence or club premises certificate to open for specified, generally extended, hours on these special occasions. Examples might include a one-off local festival, a Royal Jubilee, a World Cup or an Olympic Games.
- 6.12 Such events should be genuinely exceptional and the Secretary of State will not consider making such an order lightly. Licensing authorities (or any other persons) approaching the Secretary of State about the making of such an order are advised that they should give at least six months notice before the celebration in question. Before making such an order, the Secretary of State is required to consult such persons as she considers appropriate, and this would generally enable a wide-range of bodies to make representations to her for consideration. In addition, such an order will require the approval of both Houses of Parliament. Six months would be the minimum period in which such a process could be satisfactorily completed.

West Mercia Constabulary Position is: -

It is the view of the Chief Constable that non-standard timings related to known fixed events such as the bank holidays applied for in this application as opposed to events identified on an ad hoc basis by the operators of the premise. Provision has been made in the act to cover such ad hoc events by way of temporary event notices and there is no legal basis for the applicant to hold such ad hoc days

The guidance provided by section 182 of the act also provides at 6.11 specific power for the secretary of state to make a licensing hours order to cover such events.

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 IN RESPECT OF 'THE RIVERSIDE INN, 20 WYE STREET, ROSS-O-WYE, HR9 7BT' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Ross-on-Wye

1. Purpose

To consider an application for variation of the premises licence in respect of The Riverside Inn, 20 Wye Street, Ross-on-Wye, HR9 7BT

2. Background Information

| | | | |
|--|--|---|------------------------------------|
| Applicant | Jeffrey YOUNG | | |
| Solicitor | KEITH EVANS & CO, 14 Clytha Park Road, Newport South Wales, NP20 4PB | | |
| Type of application: Variation | Date received: 04/08/05 | 28 Days consultation 01/09/05 | Issue Deadline: 04/10/05 |

The Justices Licence has been seen and accepted. The advertisement for the premises has also been seen and accepted.

3. Conversion Licence Application

The premises currently holds a Justices On Licence.

| Licensable activity | Hours | |
|---------------------|------------|----------------------|
| Supply of Alcohol | Mon to Sat | 11:00 to 23:00 hours |
| | Sunday | 12:00 to 22:30 hours |

The premises do not hold a public entertainment licence.

4. Variation Licence Application

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

5. Summary of Application

The licensable activities applied for are: -

Live Music*

Recorded Music*

Late Night Refreshment

Supply of Alcohol

(*Not previously licensed)

6. The following hours have been applied for in respect of (*Indoors and Outdoors*) Live Music and Recorded Music,

Monday to Thursday 2000 – 2300 hours

Friday to Sunday 2000 – 0100 hours

7. The following hours have been applied for in respect of (*Indoors only*)

Late Night Refreshment

Monday to Thursday 2300 – 2400 hours

Friday and Saturday 2300 – 0400 hours

Sunday 2300 – 0100 hours

8. The following hours have been applied for in respect of (*Indoors and Outdoors*)

The Supply of Alcohol

Sunday to Thursday 1000 – 0200 hours

Friday and Saturday 1000 – 0400 hours

9. In respect of hours premises open to the public are:-

Sunday to Thursday 0900 – 0300 hours

Friday and Saturday 0900 – 0500 hours

10. Seasonal Variations

The following seasonal variation has been applied for in respect of Live Music:-

New Year's Eve 1000 until 1000 hours New Year's Day

Christmas Eve 1000 – 0100 hours

The following seasonal variation has been applied for in respect of Recorded Music

New Year's Eve 1000 – 0300 hours

Christmas Eve 2000 – 0100 hours

The following seasonal variation has been applied for in respect of the Supply Alcohol

New Year's Eve 1000 until 1000 hours New Year's Day

Christmas Eve 1000 - 0200 hours

11. Non Standard hours

There is no application for the inclusion of non-standard times

12. Conditions requested to be removed

The embedded restrictions in the Licensing Act 1964 should be removed.

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

West Mercia Police have made representations in respect of the application. They request a total of eleven conditions be attached to the licence in order to meet the licensing objective of prevention of crime and disorder.

The suggested conditions can be found within the background papers.

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 a total of twelve conditions. Most of these address the issue of noise and vibration. They also request a condition to address refuse and litter.

In respect of public safety they ask for some general conditions as well as conditions to address Overcrowding, Ventilation & Heating, First Aid, Lighting, the Electrical & Gas Installation and Fire Safety and one further conditions regarding the removal of open containers.

No conditions have been agreed at the time of this report.

The suggested conditions can be found within the background papers.

Fire Authority

There has been no representation from the Fire Authority

Interested Parties

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

The concerns primarily relate to: -

- Public Safety
- Prevention of Public Nuisance

A copy of this is included within the background papers.

14. Issues for Clarification

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

Applicant – Jeffrey YOUNG

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

Seasonal Variations

It is noted from the application that it is stated under seasonal variations within the 'hours premises are open to the public' that the opening hours New Years Eve will be from 0900 to 0900 New Years Day. Yet in respect of Live/Recorded Music and the Supply of Alcohol it is stated 'New Years Eve will be from 1000 to 1000 New Years Day. Clarification is sort as to how these hours will operate when the premises will be closed to the public between 0900 hours to 1000 hours New Years Day.

Application Form

Confirmation and signature will be required (before committee) that the application form is a genuine document as the copy we have is only a photocopy.

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
- Police Comments
- Environmental Health & Trading Standards Comments
- Application Form
- Location Plan

Background papers are available for inspection in the 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....

LACORS Guidance

The following guidance was issued by LACORS on 14th June 2005: -
'providing facilities for the public to dance is a licensable activity in terms of providing 'entertainment facilities' (Licensing Act 2003 Schedule 1 Paragraph 3(1) & 3(2)). **Therefore, the area where public dancing is to take place needs to be shown on the plan.** The precise location of the dance floor is unlikely to be necessary to be shown though, as long as the relevant room/part of the building is clearly marked.

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 IN RESPECT OF 'TIME, 100 COMMERCIAL ROAD, HEREFORD, HR1 2BJ'. - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Central

1. Purpose

To consider an application for variation of the premises licence in respect of Time, 100 Commercial Road, Hereford, HR1 2BJ.

2. Background Information

| | | | |
|--|---|--|------------------------------------|
| Applicant | Luminar Midlands and West Limited, 41 King Street, Luton, LU1 2DW | | |
| Solicitor | Poppleston Allen, 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS | | |
| Type of application: Variation | Date received: 03/08/05 | 28 Days consultation 31/08/05 | Issue Deadline: 02/10/05 |

The advertisement for the premises has been seen and accepted.

3. Conversion Licence Application

The premises currently hold a Justices On Licence, Special Hours Certificate, Cinema Licence and a Public Entertainment Licence. A conversion licence has been issued as follows; -

| Licensable activity | Hours |
|---|--|
| Sale of alcohol on and off the premises | Mon to Thurs 2000 to 0100 hours Fri and Sat 2000 to 0200 hours Sundays 2000 to 0030 hours except on a Sunday before a bank holiday when the times are 2000 to 0130 hours (excluding Easter Sunday which shall be 2000 to 0030 hours |
| Films | |

| | | |
|---|--|---|
| Late Night Refreshment | Mon to Thurs Fri and Sat Sundays Sunday before a bank holiday when the times are (excluding Easter Sunday which shall be | 2300 to 0130 hours 2300 to 0230 hours 2300 to 0100 hours except on a 2300 to 0200 hours 2000 to 0100 hours |
| Live Music, Recorded Music, Performance of Dance | Mon to Thurs Fri and Sat Sundays & Easter Sunday Bank Holiday Christmas Eve | 1100 to 0100 hours 1100 to 0200 hours 1100 to 0030 hours (Music & Dancing) 1100 to 0200 (Music & Dancing) 1100 to 0200 |

With the following condition attached: -

- The maximum number of persons admitted to the premises shall be: Ground Floor 600, First Floor 280
- The maximum number of visually identifiable stewards shall be: Ground Floor 5, First Floor 4.
- The Standard Conditions for Licensing of Premises for Regulated Entertainment. [As specified in the outgoing public entertainment licence] (See Appendix)
- 30 minute drinking up period at the end of the sale of alcohol

4. **Variation Licence Application**

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

5. **Summary of Application**

The licensable activities applied for are: -

Films

Boxing or Wrestling entertainment *

Live Music

Performance of Dance *

Provision for facilities for making music *

Provision for facilities for dancing *

Late Night Refreshment

Supply of Alcohol

(*Not previously licensed)

6. The following hours have been applied for in respect of Late Night Refreshment: -
Monday to Sunday 2300 – 0300 hours

7. The following hours have been requested (*Indoors only*) in respect of all the licensable activities applied for (except Late Night Refreshment)-
All days of the week 1100 – 0300 hours

The premises to close 30 minutes after these times.

8. **Seasonal Variations**

There is no application for any seasonal variations

9. **Non Standard hours**

The application applies for 'non-standard' hours in respect all the licensable activities applied and the hours the premises open to the public as follows: -

- An additional hour to the standard and non-standard times on the day when British Summertime commences.
- New Years Eve – from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.
- In the event of a screening of any international sporting event involving any of the countries from the United Kingdom and the Republic of Ireland which falls outside the current permitted hours on the premises licence to permit the showing of films commencing one hour before the start of the event and one hour after the end of the event, the details of the transmission to be notified to the Police 7 days beforehand and provided the Police have not objected to the additional hours within 72 hours of being notified.

10. **Removal of Conditions**

The applicant has applied to remove the following conditions: -

Any condition limiting the times alcohol can be sold, late night refreshment provided or regulated entertainment provided.

Any restrictions which are placed on the licence by virtue of Schedule 8 paragraph 6 (8) of the Licensing Act 2003, except: -

- 1) The extended permitted hours for the sale and consumption of alcohol and provision of regulated entertainment on New Years Eve/New Years Day.
- 2) On commencement of British Summertime, the benefit of the clock going forward at 2:00am, instead of 1:00am GMT
- 3) The requirement that the sale of alcohol is ancillary to music and dancing

The restriction on drinking up time is to be replaced with the finish time 03:30.

All the conditions on the Video/Cinema Licence to be replaced by the existing provisions on the Public Entertainment Licence and the provisions of section 20 of the Licensing Act 2003

To remove condition 4.2 on the Public Entertainment Licence restricting trade on Christmas Day.

To remove condition 4.3 on the Public Entertainment Licence regarding last admission time to the premises.

To amend standard condition 2.3 and condition 2 in the schedule on the Public Entertainment Licence regarding Steward numbers so that it reads "1 Door Supervisor for every 100 persons or part thereof on the premises with a minimum number of 2".

To remove the condition on the Public Entertainment Licence regarding dates and hours of opening.

To remove the condition on the Public Entertainment Licence regarding reporting of accidents.

11. **Summary of Representations**

West Mercia Police

Have made representation in relation to the 12 ad-hoc occasions applied for.

They also request a total of ten conditions to be shown on the licence to address the licensing objective of crime and disorder

A copy of the suggested conditions can be found within the background papers.

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 ask for a seven condition in relation to prevention of noise.

In respect of public safety they accept that most of the public entertainment licence conditions will remain but seek reassurance regarding the cleanliness of the carpet at the premises.

They request two additional conditions in respect of the showing of films and three in respect of Boxing and Wrestling Matches.

No conditions have been agreed at the time of this report.

A copy of the suggested conditions can be found within the background papers.

Fire Authority

The Fire Authority reiterates their agreed maximum number of persons to be :-

Ground Floor 600 with 5 stewards/attendants
Upper Floor 280 with 4 stewards/attendants

Interested Parties

The Local Authority has received 1 letters of representation in respect of the application from the Hereford City Partnership Ltd

The concerns relate to: -

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Location Plan

12. Issues for Clarification

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

Applicant – Luminar Midlands and West Limited

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

Recorded Music & Provision of Facilities for Making Music

It is noted that the application has made no request for Recorded Music. Yet application has been made for the provision of facilities for making music, where it give further details of 'In house music system playing amplified music controlled by staff'. Whilst the converted licence will allow the playing of recorded music up to 0200 hours it would not allow it until 0300 as applied for under the provision for making music.

This Authority therefore has requested confirmation that the applicant will not be playing recorded music between the hours of 0200 to 0300.

It also requires the applicant to state the reason for applying for the provision of making music up to 0300.

Licensing Objectives – Public Safety

It is noted that objective 6 shown under the Public Safety Objective states 'The seating layout shall be agreed with the appropriate authorities'.

Clarification has been sort as to whom these appropriate authorities are.

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
- Police Comments
- Environmental Health & Trading Standards Comments
- Application Form
- Location Plan
- PEL Standard Conditions

Background papers are available for inspection in the 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....

Relaxation of opening hours for local, national and international occasions

6.11 It should normally be possible for applicants for premises licences and club premises certificates to anticipate special occasions which occur regularly each year – such as bank holidays – and to incorporate appropriate opening hours for these occasions in their operating schedules. Similarly, temporary event notices – in respect of which a personal licence holder may give fifty each year – should be sufficient to cover events like Golden Wedding Anniversaries or 21st Birthday parties which take place at premises which do not have a premises licence or club premises certificate. However, with the passage of time exceptional events of local, national or international significance will arise which could not or have not been anticipated. Such events can give rise to the need to vary the conditions of large numbers of premises licences and club premises certificates. In such circumstances, it will be open to the Secretary of State to make a licensing hours order to provide for premises with a premises licence or club premises certificate to open for specified, generally extended, hours on these special occasions. Examples might include a one-off local festival, a Royal Jubilee, a World Cup or an Olympic Games.

6.12 Such events should be genuinely exceptional and the Secretary of State will not consider making such an order lightly. Licensing authorities (or any other persons) approaching the Secretary of State about the making of such an order are advised that they should give at least six months notice before the celebration in question. Before making such an order, the Secretary of State is required to consult such persons as she considers appropriate, and this would generally enable a wide-range of bodies to make representations to her for consideration. In addition, such an order will require the approval of both

Houses of Parliament. Six months would be the minimum period in which such a process could be satisfactorily completed.

West Mercia Constabulary Position is: -

It is the view of the Chief Constable that non-standard timings related to known fixed events such as the bank holidays applied for in this application as opposed to events identified on an ad hoc basis by the operators of the premise. Provision has been made in the act to cover such ad hoc events by way of temporary event notices and there is no legal basis for the applicant to hold such ad hoc days

The guidance provided by section 182 of the act also provides at 6.11 specific power for the secretary of state to make a licensing hours order to cover such events.

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 IN RESPECT OF ‘DORSTONE VILLAGE HALL, DORSTONE, HEREFORD HR3 6AN’ - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Golden Valley North

1. Purpose

To consider an application for variation of the premises licence in respect of Dorstone Village Hall, Dorstone, Hereford, HR3 6AN.

2. Background Information

| | | | |
|--|---|---|------------------------------------|
| Applicant | Dorstone Village Hall Management Committee | | |
| Solicitor | N/A | | |
| Type of application: Variation | Date received: 04/08/05 | 28 Days consultation 01/09/05 | Issue Deadline: 04/10/05 |

The Public Entertainment Licence has been seen and accepted, as has the advertisement for the premises.

3. Conversion Licence Application

The premises currently hold a Public Entertainment Licence. A conversion licence has been issued as follows; -

| Licensable activity | Hours |
|---|---|
| Live Music | Mon to Sat 11:00 to 01:00 hours |
| Recorded Music | Sunday 11:00 – 22:30 hours |
| Performance of Dance | (musical entertainment only) |
| Provision of entertainment for:- Making Music and dancing | Sunday 19:00 – 2230 hours (for dancing where no admission charge is made) |

4. Variation Licence Application

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

5. Summary of Application

The licensable activities applied for are: -

Plays*

Films*

Live Music

Recorded Music

Performance of Dance *

Anything of a similar nature to live/recorded music or performance of dance *

Provision for facilities for making music *

Provision for facilities for dance *

Anything of a similar nature to Provision of facilities for making music or dance*

Supply of Alcohol*

(*Not previously licensed)

6. The following hours have been applied for in respect of (*Indoors only*) Plays and Films,
All days of the week 1400 – 2300 hours
7. The following hours have been applied for in respect of (*Indoors only*) Live Music, Recorded Music, Performance of dance, Anything of a similar nature to live/recorded music or performance of dance and the Provision of facilities for dancing,
All days of the week 1100 – 2300 hours
8. The following hours have been applied for in respect of (*Indoors only*) Provision of facilities of making music: -
Monday to Sunday 1000 – 2300 hours
9. The following hours have been applied for in respect of (*Indoors only*) Anything of a similar nature to Provision of facilities for making music or dance: -
Monday to Saturday 1000 – 2300 hours
10. The following hours have been applied for in respect of (*On Premises only*) The Supply of Alcohol: -
Monday to Sunday 1100 – 2330 hours
11. In respect of hours premises open to the public are: -
Monday to Sunday 0900 – 2330 hours

12. Seasonal Variations

The following seasonal variation has been applied for in respect of Live Music, Recorded Music and the Supply of Alcohol
New Year's Eve

13. Non Standard hours

The following non-standard times have been applied for in respect of Live Music, Recorded Music and the Supply of Alcohol
To 0100 hours on New Year's Eve

14. Conditions requested to be removed

Increase start of hours when required.

15. 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 same as that shown on Pandy Inn, Dorstone.

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.

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 conditions in relation to the provision of plays and films.

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

The suggested conditions can be found within the background papers.

Fire Authority

The fire Authority have no representation to make but comment upon the capacity limit for the premises.

Interested Parties

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

The concerns primarily relate to:-

- Prevention of Public Nuisance

A copy of this is included within the background papers/

16. Issues for Clarification

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

The Applicant – Dorstone Village Hall Committee

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

Activities Applied For

It is noted that within the further details give in respect some of the activities applied for, that the day of the week is know, yet the application applies for each and every day of the week. Details have been requested of when it is proposed that the actual licensable activity will take place.

Supply of Alcohol

The terminal hour applied for in respect of the supply of alcohol coincides with the time that the premises are due to close. Clarification has been sort as to how this will be managed.

Removal of Conditions (Box P)

Clarification has been sort as to the meaning of the statement 'Increase start of hours when required'

Information has been requested as to how it is intended to operate the premises, this should include whether there will be any change to the current method of operation and whether it is intended to operate the premises as a public house.

17. 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.

18. 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.

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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);

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.

