

# A G E N D A

## Regulatory Sub Committee

Date: **Monday, 3rd October, 2005**

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Time: **10.00 a.m.**

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

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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](mailto:rclarke@herefordshire.gov.uk)*

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**County of Herefordshire  
District Council**



# AGENDA

## for the Meeting of the Regulatory Sub Committee

To: Councillors T.W. Hunt, R.I. Matthews and R. Preece

	Pages
<b>1. ELECTION OF CHAIRMAN</b>	
To elect a Chairman for the hearing.	
<b>2. APOLOGIES FOR ABSENCE</b>	
To receive apologies for absence.	
<b>3. NAMED SUBSTITUTES (IF ANY)</b>	
To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
<b>4. DECLARATIONS OF INTEREST</b>	
To receive any declarations of interest by Members in respect of items on the Agenda.	
<b>5. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE ROYAL OAK, 5 THE SOUTHEND, LEDBURY, HR8 2EY.'</b>	5 - 12
To consider an application for variation of the premises licence in respect of The Royal Oak, 5 The Southend, Ledbury, HR8 2EY.	
<b>6. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE BAY HORSE, 19/21 HIGH STREET, BROMYARD, HR7 4AA.'</b>	13 - 20
To consider an application for variation of the premises licence in respect of The Bay Horse, 19/21 High Street, Bromyard, HR7 4AA.	
<b>7. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE SWAN HOTEL, CHURCH STREET, KINGTON, HEREFORDSHIRE, HR5 3AZ.'</b>	21 - 26
To consider an application for variation of the premises licence in respect of The Swan Hotel, Church Street, Kington, Herefordshire, HR5 3AZ.	
<b>8. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE BARREL INN, BROOKEND STREET, ROSS-ON-WYE, HR9 7EG'</b>	27 - 32
To consider an application for variation of the premises licence in respect of The Barrel Inn, Brookend Street, Ross-on-Wye, HR9 7EG.	
<b>9. APPLICATION FOR VARIATION OF PREMISES LICENCE 'HOPE AND ANCHOR, ROPEWALK, ROSS-ON-WYE, HR9 7GL.'</b>	33 - 40
To consider an application for variation of the premises licence in respect of the Hope and Anchor, Ropewalk, Ross-on-Wye, HR9 7GL.	



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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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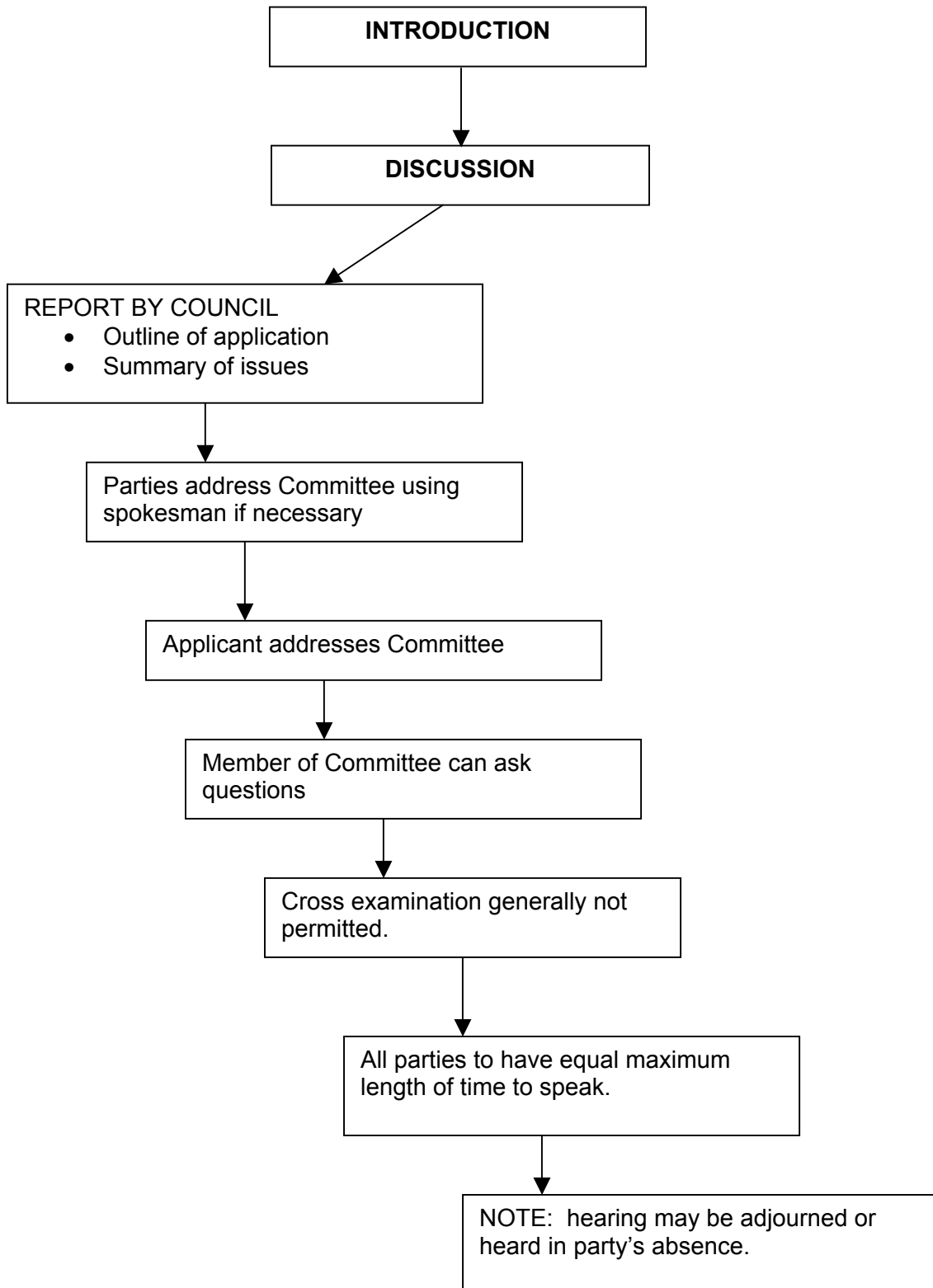
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## LICENCING HEARING FLOW CHART







## APPLICATION FOR VARIATION OF PREMISES LICENCE IN RESPECT OF 'THE ROYAL OAK, 5 THE SOUTHEND, LEDBURY' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Ledbury

#### 1. Purpose

To consider an application for variation of the premises licence in respect of The Royal Oak, 5 The Southend, Ledbury, HR8 2EY.

#### 2. Background Information

Applicant	<b>Kerri CLARKE</b>		
Solicitor	<b>N/A</b>		
Type of application: <b>Variation</b>	Date received: <b>05/08/05</b>	28 Days consultation <b>2/09/05</b>	Issue Deadline: <b>04/10/05</b>

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

#### 3. Conversion Licence Application

The premises currently hold only a Justices On Licence and No Public Entertainment Licence.

<b>Licensable activity</b>	<b>Hours</b>	
Supply of Alcohol	Mon to Sat	11:00 to 23:00 hours
	Sunday and Good Friday	12:00 to 22:30 hours
	Christmas Day	12:00 to 15:00 hours
		19:00 to 22:30 hours

#### 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\*

Indoor Sporting Events\*

Live Music\*

Recorded Music\*

Similar description to Live/Recorded Music or Performance of Dance \*

Provision of facilities for making Music\*

Supply of Alcohol

(\*Not previously licensed)

**6. The following hours have been applied for in respect of all licensable Activities applied for (*All Indoors except the supply of alcohol which is for On & Off Premises*): -**

Sunday to Thursday 1000 – 0000 hours

Friday to Saturday 1000 – 0100 hours

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

Sunday to Thursday 0900 – 0100 hours

Friday and Saturday 0900 – 0200 hours

**8 Seasonal Variations**

There is no application for seasonal variation of hours

**9. Non Standard hours**

The following hours have been applied for all licensable activities:-

When hours for the sale of alcohol are extended on Friday, Saturday, Sunday Monday of Bank Holiday Weekends, Christmas Eve, Boxing Day, New Years Day, St Patrick's Day, St George's Day, St David's Day. In the event of a transmission of any recognised international sporting event which falls outside the current permitted hours on the premises licence to permit the activity commencing one hour before the start of the event and ending one hours after the event has ended. Details of the activity to be notified to the police 21 days beforehand. The event will not proceed if the police serve, 7 days prior to the event, written notification upon the designated premises supervisor. The event will not proceed after the 7 day period if the police have intelligence that disorder is likely to occur and they notify the designated premises supervisor. These hours are also extended between 24:00 and 02:00 at the end of trading hours

**10. Conditions requested to be removed**

All embedded restrictions inherent in the Licensing Act 1964, the Cinematographic (Safety) Regulations 1955 and the Children's and Young Persons Act 1933.

**11 Summary of Representations**

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

**West Mercia Police**

West Mercia Police have made representation in respect of the application.

They make comment in respect of the application for opening of the premises for televised sporting events.

**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 vibration control.

In respect of public safety, they request some General Conditions, as well as conditions to address Overcrowding, Ventilation & Heating, First Aid, Lighting, Electrical and Fire Safety. They also request conditions in relation to Indoor Sporting Events and the removal of open containers from the premises.

In respect of the Protection of Children from Harm they request a further two conditions.

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

**Fire Authority**

There has been no representation from the Fire Authority.

**Interested Parties**

The Local Authority has received 16 letters of representation and one petition containing 25 names, in respect of the application from local residents.

The concerns primarily relate to: -

- Public Safety
- Prevention of Public Nuisance

**12 Issues for Clarification**

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

**The Applicant – Kerri CLARKE**

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

Films

The type and certification of the videos to be shown on the premises. Confirmation that the films will be restricted to 'Video Entertainment on TV screens and amusement screens'.

Indoor Sporting Events

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

Live Music

It is noted that contained within the General Licensing Objective it is stated 'The Types of regulated entertainment proposed re-instate and then enhance the normal pub entertainment that were previously unregulated'.

Clarification therefore is sort whether the live music is to be restricted to two in a bar as previously licensed.

Anything of a similar nature to Live Music, Recorded Music or Performance of Dance

Conformation that the only activities to be licensed are as shown within 'the description' shown in Box H of the application form.

Non-standard timings

In respect of all the licensable activities applied for within the non-standard timings it states that 'When the hours for the sale of alcohol are extended on Friday, Saturday, Sunday and Monday of Bank Holiday Weekends, Christmas Eve, Boxing Day, New Year Day, St Patrick's Day, St Georges Day & St David's Day'. It is noted that the same has been stated within the 'Supply of Alcohol' section.

Clarification is therefore sort as to the hours that were to apply on these days.

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

**Background papers are available for inspection in the Assembly Rooms, 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).

**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 BAY HORSE, 19/21 HIGH STREET, BROMYARD, HR7 4AA.’ - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Bromyard

### Purpose

- To consider an application for variation of the premises licence in respect of The Bay Horse, 19/21 High Street, Bromyard, HR7 4AA.

### Background Information

2.

Applicant	Enterprise Inns P.L.C, 3 Monkspath Hall Road, Solihull, West Midlands, B90 4SJ		
Solicitor	Osborne Clarke, 2 Temple Back East, Bristol, BS1 6EG		
Premises	The Bay Horse, 19/21 High Street, Bromyard, HR7 4AA		
Type of application: <b>Variation</b>	Date received: <b>03/08/05</b>	28 Days consultation <b>31/08/05</b>	Issue Deadline: <b>03/10/05</b>

### Conversion Licence Application

- A conversion licence will be issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon – Sat 1100 am – 2300 pm Sunday 1200 midday – 2230 pm New Years Eve 1100 am – 0000 midnight New Years Day 0000 – 2300 pm Christmas Day 1200 – 1500 and 1900 – 2230

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 does not hold a current public entertainment licence.

- To retain all embedded permissions and restrictions attached to a Justices On Licence.

### Variation Licence Application

4. The application for a variation has received a representation from a resident and is therefore now brought before the sub-committee for determination.

### Summary of Application

5. The licensable activities applied for are: -

**Films (indoors)**

**Live Music (indoors and outdoors)**

**Recorded Music (indoors and outdoors)**

**Provision of regulated entertainment – anything of a similar description to that falling within (e), (f) or (g) (indoors)**

**Provision of entertainment facilities for making music and dancing (indoors)**

**Late night refreshment (indoors)**

Supply of Alcohol (on and off premises)

Hours the premises are open to the public.

**(Activities in bold are those not previously licensed)**

6. The following hours have been applied for in respect of Films (*Indoors only*):-

Mon – Thurs, and Sunday	1000 – 0030
Fri – Sat	1000– 0130

7. The following hours have been applied for in respect of Live music (*Indoors and Outdoors*):-

Mon – Thurs, and Sunday	1000– 0000
Fri – Sat	1000– 0100

8. The following hours have been applied for in respect of Recorded Music (*indoors and Outdoors*):-

Mon – Thurs, and Sunday	1000– 0000
Fri – Sat	1000– 0100

9. The following hours have been applied for in respect of provision of regulated entertainment – anything of a similar description to that falling within (e), (f) or (g) (*Indoors*):-

Mon – Sun 1100 – 0000

10. The following hours have been applied for in respect of provision of
-

entertainment facilities for making music and dancing (Indoors) :-

Mon – Sun 1100 – 0000

11. The following hours have been applied for in respect of Provision of late night refreshment (indoors)

Mon – Thurs, and Sunday 2300– 0030  
Fri – Sat 2300– 0130

12. The following hours have been applied for in respect of supply of alcohol:-

Mon – Thurs, and Sunday 1000– 0000  
Fri – Sat 1000 – 0100

13. The hours that the premises will be open to members of the public:-

Mon – Thurs, and Sunday 1000 – 0030  
Fri – Sat 1000 – 0130

11. **Non Standard hours**

The application applies for ‘non-standard’ hours.

**In respect of Films:-**

When hours for sale of alcohol are extended on bank holidays, these hours are also extended between 1000 am and 0130 am in the morning at the end of trading hours.

**In respect of Late Night Refreshment:-**

When hours for sale of alcohol are extended on bank holidays, these hours are also extended between 1000 am and 0100 am in the morning at the end of trading hours.

**In respect of the supply of alcohol:-**

1000 am – 0100 am on Sundays on bank holiday weekends, Christmas Eve and Boxing Day.

**In respect of ‘Hours the premises are open to the public’:-**

Trading hours may be extended on Bank Holidays, between 1100 am and 0130 am in the morning at the end of normal trading hours.

The applicant has applied to 'Remove all embedded restrictions inherent in the Licensing Act 1964, the Cinematograph (Safety) Regulations 1955 and the Children and Young Persons Act 1933.

### 13. Summary of Representations

The landlord and area manager have agreed with all recommendations set by the Police, Environmental Health Officers and the Fire Officers, but the local representation has not been agreed.

#### **West Mercia Police**

Have made representation in respect of the application and request that a closed door policy be operated from Midnight on Friday and Saturday night preventing public admittance beyond that time in order to maintain order and ensure the integrity of the four licensing objectives is met. **These conditions have been agreed.**

#### **Fire Authority**

The fire authority have advised that a suitable and sufficient risk assessment should be carried out. **These conditions have been agreed.**

#### **Environmental Health**

Environmental Health Officers have made representations in relation to the application. This representation addresses the Licensing Objectives of Public Safety, Prevention of Public Nuisance, and protection of Children from harm.

In respect of Public safety they seek conditions in relation to overcrowding, ventilation and heating, first aid, lighting, electrical installation, fire safety, gas installations, and open containers.

In respect of the Prevention of Public Nuisance they seek some conditions in relation to noise and vibration.

In respect of the protection of Children from harm they seek conditions in Relation to proof of age regulations, films and videos, and proven anti drug and alcohol methods.

**These conditions have been agreed.**

#### **Interested Parties**

The Local Authority has received 1 letter of representation from a resident.

The concerns relate to:

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

### 14. Issues for Clarification

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This Authority has requested clarification on particular points from Enterprise Inns.

Clarification is sought on what provision of regulated entertainment with regard to box H – anything of a similar description to that falling within (e), (f) and (g), will take place on the premise.

**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 Assembly Hall, Town Hall, St. Owen's Street, 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 IN RESPECT OF 'THE SWAN HOTEL, CHURCH STREET, KINGTON, HEREFORDSHIRE, HR5 3AZ' - 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 Swan Hotel, Church Street, Kington, Herefordshire, HR5 3AZ.

**Background Information**

2.

Applicant	<b>Mr Steven Jon Pike</b>		
Solicitor	<b>N/A</b>		
Premise	<b>The Swan Hotel, Church Street, Kington, Herefordshire, HR5 3AZ</b>		
Type of application: <b>Variation</b>	Date received: <b>04/08/05</b>	28 Days consultation <b>01/09/05</b>	Issue Deadline: <b>04/10/05</b>

**Conversion Licence Application**

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

<b>Licensable activity</b>	<b>Hours</b>
Sale of alcohol on and off the premises	Mon-Sat 1000 to 2300 hours Sun 1200 to 2230 hours Good Friday 1200 to 2230 hours Christmas Day 1200 to 1500 hours and 1900 to 2230 hours. New Years Eve 1000 hours to 2300 hours New Years Day

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.

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 Only)  
**Performance of Dance** (Indoors Only)  
**Provision of Facilities for Making Music** (Indoors Only)  
**Provision of Facilities for Dancing** (Indoors Only)  
**Late Night Refreshment** (Indoors Only)  
 Supply of Alcohol (On and Off the Premises)  
 Hours premises are open to public  
**(Activities in bold are those not previously licensed)**
6. The following hours have been applied for in respect of Live Music, Performance of Dance, Provision of Facilities for Making Music, Provision of Facilities for Dancing (*All Indoors only*):-
- |           |             |
|-----------|-------------|
| Mon – Sat | 1000 – 0000 |
| Sun       | 1000 – 2300 |
7. The following hours have been applied for in respect of Supply of Alcohol and Late Night Refreshment:-
- |            |             |
|------------|-------------|
| Mon – Thur | 1000 – 0000 |
| Fri + Sat  | 1000 – 0100 |
| Sun        | 1000 – 2300 |
8. The following hours have been applied for in respect of supply of alcohol (indoors and outdoors):-
- |                     |             |
|---------------------|-------------|
| Mon – Thurs         | 1000 – 2400 |
| Friday and Saturday | 1000 – 0100 |
| Sunday              | 1000 – 2300 |
9. **Non Standard hours**  
 The Applicant has not asked for any non standard hours.
10. **Summary of Representations**

#### West Mercia Police

Have made representation in respect of the application and request a number of conditions to be applied to the licence to prevent crime and disorder and public nuisance.

In order to promote the licensing objectives and in particular, with a view to preventing crime and disorder, and public nuisance, the Police Authority would seek for the following conditions to be imposed:

- The provision of a capacity limit
- The provision of CCTV which meets the requirements and expectations of the Licensing Authority and Police
- The provision of Door Supervisors on days when the supply of alcohol is authorised after 0000 midnight and regulated entertainment is provided
- The provision of a last entry time of 0000 midnight
- The provision of an incident book
- The prevention of open containers being taken from the premise.

### **Fire Authority**

Have made no relevant representation.

### **Environmental Health**

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

In respect of Public Safety they seek conditions in relation to Overcrowding, Ventilation and Heating, First Aid, Lighting, Electrical Installation, Fire Safety, Gas Installations and Open Containers.

In respect of Public Nuisance they ask for conditions in relation to Noise and Vibration.

In respect of Protection of Children from Harm they ask for conditions in relation to identifying and controlling access and serving of children and the viewing of films or videos.

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

The suggested conditions can be found within the background papers.

The Environmental Pollution Team received a complaint on 6<sup>th</sup> June 2005 concerning noise from the public house (amplified music) and antisocial behaviour (patrons urinating). The complainant was monitoring during the Kington Festival.

### **Interested Parties**

The Local Authority has received 10 letters of representation in respect of the application from local residents.

The concerns relate to:

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

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## **11. Issues for Clarification**

None.

## 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 forms
- Environmental Health & Trading Standards Comments
- Application Form
- Any other associated papers

**Background papers are available for inspection in the Assembly Hall, Town Hall, St. Owen's Street, 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 IN RESPECT OF 'THE BARREL INN, BROOKEND STREET, ROSS-ON-WYE, HR9 7EG' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Ross-on-Wye West/East

#### 1. Purpose

To consider an application for variation of the premises licence in respect of The Barrel Inn, Brookend Street, Ross-on-Wye, HR9 7EG.

#### 2. Background Information

Applicant	<b>Samantha Jane PEARCE</b>		
Solicitor	<b>Thorpe &amp; Thorpe Solicitors, 2 Church Street, Ross on Wye, HR9 5HW</b>		
Type of application: <b>Variation</b>	Date received: <b>05/08/05</b>	28 Days consultation <b>3/09/05</b>	Issue Deadline: <b>04/10/05</b>

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

#### 3. Conversion Licence Application

The premises currently only holds a Justices On Licence and no public entertainment licence.

<b>Licensable activity</b>	<b>Hours</b>	
Supply of Alcohol	Mon to Sat	11:00 to 23:00 hours
	Sunday and Good Friday	12:00 to 22:30 hours
	Christmas Day	12:00 to 15:00 hours
		19:00 to 22:30 hours

#### 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\*

Similar description to Live/Recorded Music/Performance of Dance\*

Provision of facilities for making Music\*

Supply of Alcohol

(\*Not previously licensed)

6. The following hours have been applied for in respect of (*Indoors Only*) Live music, Anything of a similar description to Live/Recorded Music or Performance of Dance: -

Sunday to Thursday 1100 – 2300 hours

Friday and Saturday 1100 – 0100 hours

7. The following hours have been applied for in respect of (*Indoors Only*) Films, Recorded Music, and the supply of alcohol (*both On & Off Premises*): -

Monday to Thursday 1100 – 0100 hours

Friday and Saturday 1100 – 0200 hours

Sunday 1100 – 0030 hours

The premises to close 30 minutes after these times.

**8. Seasonal Variations**

There is no application for seasonal variation of hours

**9. Non Standard hours**

There is no application for non-standard timings.

**10. Conditions requested to be removed**

There is no application for removal of any conditions imposed on the converted licence

**11. Summary of Representations**

A copy of the agreed conditions and the representation received can be found within the background papers.

**West Mercia Police**

Made representation in respect of the application. However all the requested conditions have been agreed by the applicant.

**Environmental Health**

They requested that a number of conditions be attached to the licence. The applicant has also agreed these.

**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:-

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

**12. Issues for Clarification**

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

Applicant – Samantha PEARCE

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

Films

Apart from the films described within the further details of the application will any other films be shown.

If so, details have been requested.

Live Music

Confirmation has been sought as to whether the proposed live music will be restricted to no more than two performers at any one time.

Recorded Music

The application form states that CD's will be played during normal trading hours as background music and also a jukebox. Confirmation has been sort to confirm that this is the only kind of music to be played.

**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 and Photographs
- Police Representation
- Environmental Health & Trading Standards Comments
- Application Form
- Location Plan

**Background papers are available for inspection in the Assembly Hall, 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....

**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 IN RESPECT OF 'HOPE AND ANCHOR, ROPEWALK, ROSS-ON-WYE'. - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Ross-on-Wye West/East

#### 1. Purpose

To consider an application for variation of the premises licence in respect of Hope and Anchor, Ropewalk, Ross-on-Wye, HR9 7GL.

#### 2. Background Information

Applicant	<b>Benjamin Paul FARRINGTON NELSEY</b>		
Solicitor	<b>John Gaunt &amp; Partners Solicitors, 372 Omega Court Cemetery Road, Sheffield, S11 8FT</b>		
Type of application: <b>Variation</b>	Date received: <b>06/08/05</b>	28 Days consultation <b>03/09/05</b>	Issue Deadline: <b>06/10/05</b>

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

#### 3. Conversion Licence Application

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

<b>Licensable activity</b>	<b>Hours</b>	
Sale of alcohol on and off the premises	Mon to Sat	10:00 to 23:00 hours
	Sun and Good Friday	12:00 to 22:30 hours
	Christmas Day	1200 to 1500 hours and 1900 to 2230 hours.
	New Years Eve	1000 hours to 2300 hours
	New Years Day	
Public Entertainment Licence (Music, Singing & Dancing)	Mon to Sat	11:00 to 23:30 hours
	Sundays	11:00 to 22:30 hours (Musical Entertainment only)
	Sundays	19:00 to 22:30 hours for dancing where no charge is made.

With the following conditions attached: -

- The maximum number of persons admitted has been set by the Fire Authority for the purposes of the Public Entertainment Licence as: -  
Conservatory 175 (With no more than 100 persons at the first floor level) and 4 stewards. Boat Bar & Entrance 100, Parlour Bar 20 and Parlour Restaurant 20 (All with 3 stewards).
- The Standard Conditions for Licensing of Premises for Regulated Entertainment.
- 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. Despite numerous attempts to resolve this application with the applicants' solicitor no response has been received and the representations still remain outstanding. It is therefore now brought before the sub-committee to determine the application.

#### 5. **Summary of Application**

The licensable activities applied for are: -

Films\*

Indoor Sporting Events\*

Live Music

Recorded 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 requested in respect of Late Night Refreshment: -

Monday to Thursday	2300 – 0100 hours
Friday and Saturday	2300 – 0200 hours
Sunday	2300 – 0000 hours

#### 7. The following hours have been requested in respect of all the other licensable activities applied for (*Indoors only*) to include the sale of alcohol (*both on & off premises*): -

Monday to Thursday	1000 – 0100 hours
Friday and Saturday	1000 – 0200 hours
Sunday	1000 – 0000 hours

The premises to close 30 minutes after the above times.

**8. Seasonal Variations**

No application is made for seasonal variations other than those applied for under non-standard Hours

**9. Non Standard hours**

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

To the extent that the variation in part B1 paragraph 4 is not granted or does not permit: to permit sale of alcohol and such regulated entertainment as authorised hereunder until 02:00 on Friday, Saturday, Sunday and Monday at bank holiday weekends, Christmas Eve, Boxing Day and also to the extent that the variation in part B1 paragraph 4 is not granted to open to the same hour on up to 20 occasions per annum at my discretion upon 7 days prior notice to the police (if required by them)

New Year's Eve: 10:00 to New Year's Day – terminal hour as proposed.

To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside the normal hours, such opening times for this purpose to be confirmed upon 7 days notice in writing to the police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.

**10. Removal of Conditions**

The applicant applies for the removal of all embedded restrictions inherent in Licensing Act 1964, save as specified elsewhere in part B of this application.

**11. Summary of Representations**

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

**West Mercia Police**

West Mercia Police have made representation in respect of the application and have made comments concerning the application for ad-hoc times. They request a total of nine conditions to be shown on the licence to address the licensing objective of crime and disorder.

**Environmental Health**

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

In respect of public safety they request a fire risk assessment.

**Fire Authority**

The Fire Authority has made no representation on the grounds that they rejected the application, as they did not receive it before 6<sup>th</sup> August 2005.

**12. Issues for Clarification**

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

**Applicant – Benjamin FARRINGTON NELSEY**

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

It is noted that in respect of the application for films, indoor sporting events, live music, performance of dance and late night refreshment that the box which asks for 'Further Details' in each case it states 'As stated in B1 above'  
*Box B1 states: -*

1. To permit regulated entertainment comprising: Live music and amplified voice, recorded music by juke box and music systems, comperes for functions and quizzes and similar forms of entertainment, indoor pub games comprising a sporting event in the presence of an audience, video entertainment on screens and TV screens and amusement machines.

Clarification is therefore sought in respect of the details of the activities applied for as follows: -

**Films**

The type and certification of the videos to be shown on the premises. Whether additional seating will be provided. If so, then a plan showing the seating arrangement.

Whether it is intended to show anything else other than video entertainment on screens and TV screens and amusement machines.

**Indoor Sporting Events**

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

**Performance of Dance**

Whether it is intended that the premises shall be used for the performance of dance, which will take place in the presence of an audience for their entertainment.

If so, then a description of the type(s) of dance to be provided.

**Provision of facilities for making music**

Full details are required of the facilities that are to be licensed. For example: The type of equipment at the premises for the making of music

**Provision of facilities for dancing**

Full details are required of the facilities that are to be licensed. For example: Whether or not the premises have a clearly defined dance floor.



All licensable activities

Confirmation is required from the applicant that if the licensable hours applied for were not granted, then the applicant applies to be permitted to sale alcohol and provide regulated entertainment until 02:00 the following morning on Friday, Saturday, Sunday and Monday at Bank Holiday weekends, Christmas Eve and Boxing Day

And also to open to the same hour on up to 20 occasions per annum at their discretion upon 14 days prior notice to the police (if required by them).

Non Standard Timings

Clarification is required from the applicant as to the hours that are applied for on New Year Eve.

It is unclear as to the actual hours that are applied for in respect of all the licensable activities with the exception of the sale of alcohol. Please state the hours that are to apply when the hours for alcohol are extended.

**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**

- Police Comments
- Environmental Health & Trading Standards Comments
- Fire Authority Comments
- Application Form
- Location Map
- PEL Conditions

**Background papers are available for inspection in the Assembly Hall, 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).

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.

**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.