

A G E N D A

Regulatory Sub Committee

Date: **Tuesday, 4th October, 2005**

Time: **10.00 a.m.**

Place: **The Library, Shirehall, 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

AGENDA

for the Meeting of the Regulatory Sub Committee

To: Councillors R.I. Matthews, D.C. Taylor and P.G. Turpin

	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 'ROSS-ON-WYE ROWING CLUB, THE ROPEWALK, ROSS-ON-WYE, HR9 7BU.' To consider an application for variation of the premises licence in respect of Ross-on-Wye Rowing Club, The Ropewalk, Ross-on-Wye, HR9 7BU.	5 - 12
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7. APPLICATION FOR VARIATION OF PREMISES LICENCE 'TESCO HEREFORD 2, ABBOTSMEAD ROAD, HEREFORD, HR2 7XS.' To consider an application for variation of the premises licence in respect of Tesco Hereford 2, Abbotsmead Road, Hereford, HR2 7XS.	17 - 22
8. APPLICATION FOR VARIATION OF PREMISES LICENCE 'KING CHARLES II, 13 BROAD STREET, ROSS-ON-WYE, HR9 7EA.' To consider an application for variation of the premises licence in respect of King Charles II, 13 Broad Street, Ross-on-Wye, HR9 7EA.	23 - 30

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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.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of the Cabinet, of all Committees and Sub-Committees.
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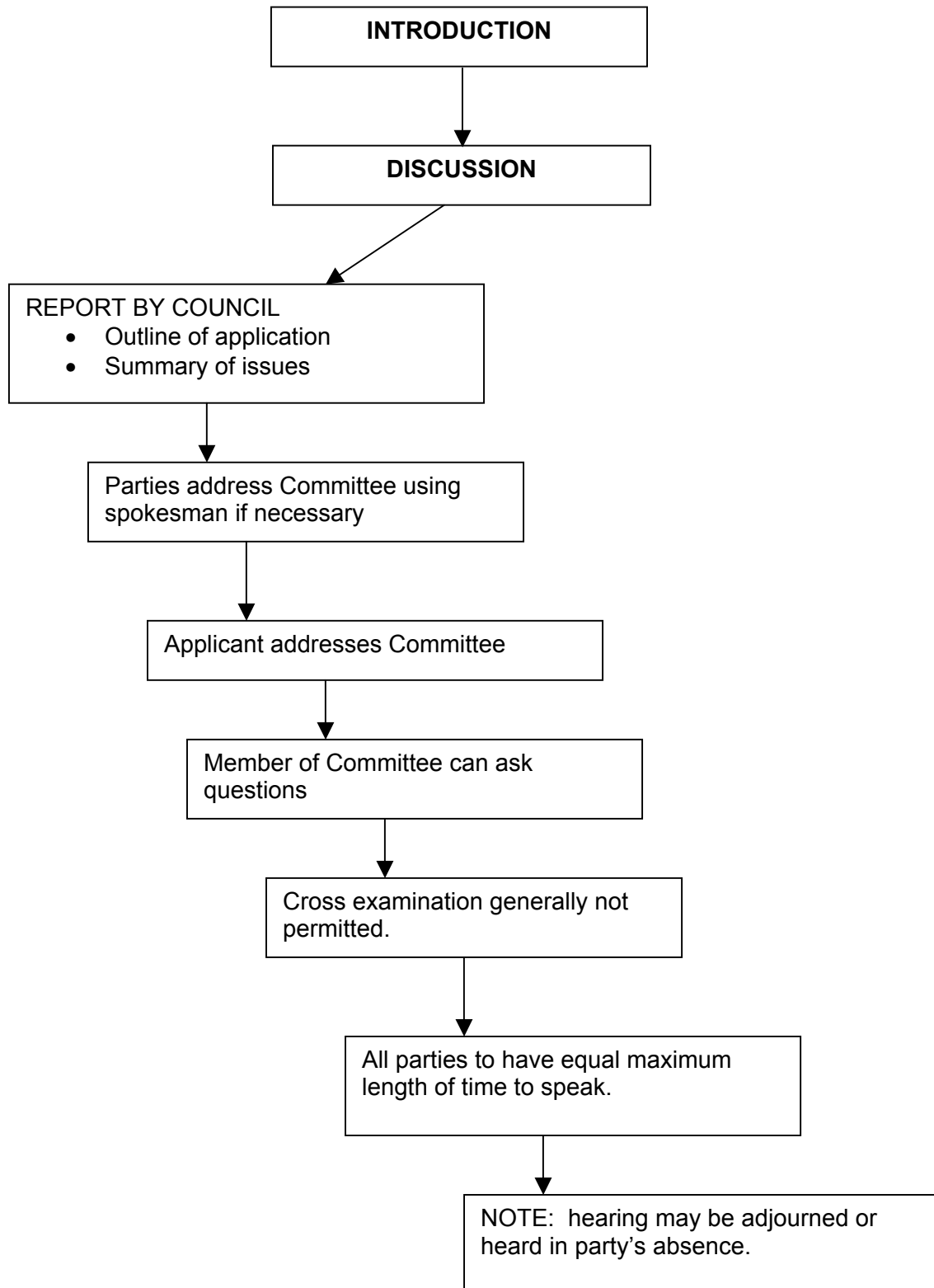
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LICENCING HEARING FLOW CHART



**APPLICATION FOR VARIATION OF CLUB PREMISES
CERTIFICATE IN RESPECT OF 'ROSS-ON-WYE
ROWING CLUB, BROOKSMOUTH, THE ROPEWALK,
ROSS-ON-WYE, HR9 7BU' - 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 club premises certificate in respect of Ross-on-Wye Rowing Club, The Ropewalk, Ross-on-Wye, HR9 7BU.

2. Background Information

Applicant	Ross-On- Wye Rowing Club		
Solicitor	N/A		
Type of application: Variation	Date received: 08/08/05	28 Days consultation 05/09/05	Issue Deadline: 07/09/05

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

3. Conversion Licence Application

The premises currently hold a Club Registration Certificate. A conversion licence has been issued as follows; -

Licensable activity	Hours
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 conditions attached: -

- 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 a local resident. It is therefore now brought before committee for determination.

5. Summary of Application

The licensable activities applied for are: -

Indoor Sporting Events*

Live Music*

Recorded Music*

Supply of Alcohol

(*Not previously licensed)

6. The following hours have been requested in respect of Indoor Sport Events: -
Monday to Sunday 0900 – 1800 hours

7. The following hours have been requested in respect of Live Music and Recorded Music (*Both Indoors and Outdoors*): -
Sunday to Thursday 1000 – 2300 hours
Friday & Saturday 1000 – 0000 hours

8. The following hours have been requested in respect of Supply of Alcohol (*On Premises*): -
Monday to Sunday 0900 – 0100 hours

9. Seasonal Variations

No application for seasonal variations has been made.

10. Non Standard Hours

The application applies for 'non-standard' hours in respect of Live and Recorded Music as follows: -

Occasional Events only – Estimated one early July, one late August. Timings 9am to 1am.

August Bank Holiday Weekend Sat/Sun 1000 – 0200. second Friday in September, second Friday in December and New Years Eve.

In respect of the supply of alcohol – Occasional Events 24 hour (Such as Fund Raising Events), to allow us save use of TENS for Non-Member Events estimated 6 events/year.

1x Mid Sept, 1x Mid Dec, 1xNew Years Eve, 1xMarch, 1xMay, 1xJuly.

11. Removal of Conditions

The applicant has not applied to remove any conditions.

12. 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 comment upon the fact that the club have already confirmed with them that they do not intend to operate to 0100 hours each and every day of the week.

They also seek further information in respect of the Non-Standard Timings applied for.

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 ask for two conditions in relation to prevention of noise and vibration.

In respect of public safety they seek some general conditions, as well as conditions to address Overcrowding, Ventilation & Heating, First Aid, Lighting, Gas and Electrical Safety.

In respect of the protection of children from harm they request the inclusion of two conditions.

Fire Authority

Have no representation to make in respect of the application.

11 Issues for Clarification

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

Applicant – Ross On Wye Rowing Club.

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

Indoor Sporting Events

It is noted from the application that the hours for the above activity are 0900 to 1800 hours each day. Yet the application states that these events will only take place on two occasions per year.

Details have been requested as to when these two events are likely to take place.

Confirmation has also been requested that no other kind of indoor sporting event will take place.

Live Music & Recorded Music

Again it is noted from the application that the hours for the above activity are 1000 to 2300 hours each day. Yet the application states that these events will only involve one in early July & one in Late August. With an event on Saturday & Sunday of August Bank Holiday Weekend from 1000 to 0200 and

events on the second Friday in September & the second Friday in December and New Years Eve until 0200 hours.

Confirmation has been asked for that these are the only times that this part of the licence is to apply.

If this is not the case then details of the actual days and hours when this part of the licence will be used.

No details have been provided in respect of the use of music to be provided outside. This has not been shown within the premises description, or on the plan of the premises. Full details of this have been requested, including a plan of the outside area.

Supply of Alcohol

The police have made comment that following a conversation with the applicant, it is clear that there is no intention to supply alcohol on every day of the week 0900 to 0100.

Therefore details of the times that it is actually proposed to supply alcohol have been requested.

Clarification is sort in respect of the non-standard timings applied for under this section. It is unclear whether it is intended to apply for TENS for the 24-hour events. If it is intend to be part of the licence, then details of the day(s) that this is to apply have been asked for.

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**

- Letter of Representation
- Police Comments
- Environmental Health & Trading Standards Comments

- Application Form
- Location Map

Background papers are available for inspection in the Shirehall, Hereford, 30 minutes before the start of the hearing.

NOTES**Guidance issued under section 182 of the Licensing Act 2003, Section S18(7)****Relevant, vexatious and frivolous representations**

- 5.73 A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives....
- 5.75 It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious....

The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness....

The operating schedule

- 5.46 The operating schedule will form part of the completed application form for a premises licence. An operating schedule should include information, which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory.

An operating schedule must also set out the following details: -

the relevant licensable activities to be conducted on the premises;

the times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year);

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 CROWN INN, LONGTOWN, HEREFORD, HR2 0LT.' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Golden Valley South

1. Purpose

To consider an application for variation of the premises licence in respect of The Crown Inn, Longtown, Hereford, HR2 0LT.

2. Background Information

Applicant	Richard Dennis SMITH		
Solicitor	T A Matthews, 6 King Street, Hereford. HR4 9BS		
Type of application: Variation	Date received: 05/08/05	28 Days consultation 02/09/05	Issue Deadline: 04/10/05

The Justices Licence and Supper Hours certificate for the premises has been seen and accepted, as has the advertisement for the premises.

3. Conversion Licence Application

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

Licensable activity	Hours	
Sale of alcohol on and off the premises	Mon to Sat	10:00 to 23:00 hours
	Sundays	12:00 to 22:30 hours
	Good Friday	12:00 to 23:00 hours
	Christmas Day	12:00 to 15:00 hours and 19:00 to 22:30 hours
	New Year's Eve	from end of permitted hours to start of permitted hours on following day
Supper hours Certificate	Dining Area - an extension of one hour of the above hours for public taking table meals and between 15:00 and 19:00 hours on Christmas Day.	

With the following conditions attached: -

- 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 from an interested party. It is therefore now brought before committee to determine the application.

5. Summary of Application

The licensable activities applied for are: -
Supply of Alcohol

6. The following hours have been requested in respect of all the licensable activities applied for (*On & Off Premises*): -

Monday to Thursday	1000 to 0100 hours
Friday and Saturday	1000 to 0200 hours
Sunday	1200 to 0100 hours

The premises to close 30 minutes after these times.

7. Seasonal Variations

There is no application for seasonal variations.

8. Non Standard Hours

There is no application for non standard hours.

9. Removal of Conditions

The applicant has not applied to remove any conditions.

10. Summary of Representations**Responsible Authorities**

Have no representations to make in respect of the application.

Interested Parties

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

The concerns relate to:-

- Prevention of Crime and Disorder
- Prevention of Public Nuisance
- Protection of Children from Harm

11. Issues for Clarification

This Authority has not requested clarification on any particular point.

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

- Copy of Representation
- Application Form
- Location Plan

Background papers are available for inspection in the Library, Shirehall, 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....

**APPLICATION FOR VARIATION OF PREMISES
LICENCE IN RESPECT OF 'TESCO HEREFORD 2,
ABBOTSMEAD ROAD, BELMONT, HEREFORD, HR2
7XS' - LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Belmont

1. Purpose

To consider an application for variation of the premises licence in respect of Tesco Hereford 2, Abbotsmead Road, Hereford, HR2 7XS.

2. Background Information

Applicant	Tesco Stores Ltd		
Solicitor	N/A		
Type of application: Variation	Date received: 05/08/05	28 Days consultation 02/09/05	Issue Deadline: 04/10/05

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

3. Conversion Licence Application

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

Licensable activity	Hours	
Sale of alcohol off the premises	Monday to Saturday	0800 – 2300 hours
	Sunday	1000 – 2230 hours
	Good Friday	0800 – 2230 hours
	Christmas Day	1200 – 1500 hours
		1900 – 2230 hours

4. Variation Licence Application

The application for a variation has received representation from 1 local resident.

5. Summary of Application

The licensable activity applied for is: -
Supply of Alcohol

6. The following hours have been requested in respect of the sale of alcohol (*Off Premises*): -
Monday to Sunday 0001 hours – 0000 hours
7. The hours the premises are open to the public are: -
Monday 0800 hours – 0000 hours
Tuesday to Friday 0001 hours – 0000 hours
Saturday 0001 hours – 2200 hours
Sundays 1000 hours – 1600 hours
8. **Seasonal Variations**
There is no application for seasonal variation.
9. **Non Standard Hours**
There is no application for non-standard hours.
10. **Removal of Conditions**
The applicant has not applied to remove any conditions.
11. **Summary of Representations**

Responsible Authorities

Have no representation to make regarding this application.

Interested Parties.

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

The concerns relate to: -

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

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

12. **Issues for Clarification**

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

The Applicant – Tesco Stores Ltd

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

Supply of Alcohol/Hours Premises Open to the Public

It is noted that the application applies to sell alcohol 24 hours a day, 7 days a week. Yet the premises are only to be open from 0800 hours Monday until 2200 hours on Saturday and from 1000 hours to 1600 hours on a Sunday. Clarification has therefore been sort as to the reason why the sale of alcohol is applied for during the period when the premises is closed.

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

- Copy of Representation
- Application Form
- Location Map

Background papers are available for inspection in the Library, Shirehall, 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**

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- 5.75 It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious....

The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness....

The operating schedule

- 5.46 The operating schedule will form part of the completed application form for a premises licence. An operating schedule should include information, which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory.

An operating schedule must also set out the following details: -

the relevant licensable activities to be conducted on the premises;

the times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year);

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 'KING CHARLES II, 13 BROAD STREET, ROSS-ON-WYE, HR9 7EA' - 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 King Charles II, 13 Broad Street, Ross-on-Wye, HR9 7EA.

2. Background Information

Applicant	Andrew GOODING		
Solicitor	John Gaunt & Partners Solicitors, 372 Omega Court Cemetery Road, Sheffield, S11 8FT		
Type of application: Variation	Date received: 05/08/05	28 Days consultation 02/09/05	Issue Deadline: 04/10/05

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

3. Conversion Licence Application

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

Licensable activity	Hours	
Sale of alcohol on and off the premises	Mon to Wed	1000 to 2300 hours
	Thurs to Sat	1000 to 0100 hours
	Sun	1200 to 0030 hours
	Christmas Day	1200 to 1500 hours and 1900 to 2230 hours.
	New Years Eve	1000 hours to 2300 hours
	New Years Day	
Live Music, Recorded Music, Performance of Dance	Mon to Wed	1100 to 2330 hours
	Thurs to Sat	1100 to 0100 hours
	Sundays	1100 to 0030 hours (Music Entertainment only)
	Sunday	1900 to 0030 hours (for dancing where no charge is made).

Further information on the subject of this report is available from Suzanne Laughland, Licensing Manager on (01432) 261675

Special Hours Certificate	Thursday, Friday & Saturdays until 1.00am and Sundays until 12.30am subject to premises being closed between 6pm to 8pm Thursday, Friday & Saturdays and 7pm to 8pm Sundays.
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With the following conditions attached: -

- The maximum number of persons admitted to the premises shall be: 180
- The maximum number of visually identifiable stewards shall be: 3
- 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. The Licensing Unit has tried to resolve these representations but have had no response from the applicants' solicitor. 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

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 (*Indoors only*): -

Monday to Wednesday 2300 – 0000 hours

Thursday to Saturday 2300 – 0200 hours

Sunday 2300 – 0030 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 Wednesday 1000 – 0000 hours

Thursday to Saturday 1000 – 0200 hours

Sunday 1200 – 0030 hours

The premises to close 30 minutes after the licensable activities end.

8. Seasonal Variations

No application is made for seasonal variations.

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 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 and in the attached Special Hours Certificate, save as specified elsewhere in Part B of this application.

Removal of the following conditions on the Public Entertainment Licence:

Condition 3." 19:00 – 12:30 for dancing where no admission charge is made"

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 request a total of nine conditions to be shown on the licence to address the licensing objective of crime and disorder.

They also may comment upon the application for ad-hoc timings at the applicants discretion on up to 20 occasions a year and for international sporting events.

Environmental Health

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

In respect of public nuisance they ask for three conditions in relation to prevention of noise.

Fire Authority

The Fire Authority has made comment upon maximum permitted number for the premises being 180 with 3 stewards.

12. Issues for Clarification

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

Applicant – Andrew GOODING

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 sort 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 Library, Shirehall, 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.