

A G E N D A

Regulatory Sub Committee

Date: **Tuesday, 1st November, 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*

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**County of Herefordshire
District Council**

AGENDA

for the Meeting of the Regulatory Sub Committee

To: Councillors J.W. Hope MBE, R.I. Matthews and P.G. Turpin

	Pages
<p>1. ELECTION OF CHAIRMAN</p> <p>To elect a Chairman for the hearing.</p>	
<p>2. APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
<p>3. NAMED SUBSTITUTES (IF ANY)</p> <p>To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.</p>	
<p>4. DECLARATIONS OF INTEREST</p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
<p>5. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE LITTEN TREE, COMMERCIAL ROAD, HEREFORD, HR1 2BP'</p> <p>To consider an application for variation of the premises licence in respect of The Litten Tree, Commercial Road, Hereford, HR1 2BP.</p>	1 - 8
<p>6. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THREE ELMS, 1 CANON PYON ROAD, HEREFORD. HR4 9QQ. (CONSIDERATION OF ADVERTISEMENT)' - LICENSING ACT 2003</p> <p>To consider whether the advertisement displayed at 'Three Elms, 1 Canon Pyon Road, Hereford. HR4 9QQ, notifying an application for variation of premises licence, complies with the requirements of The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.</p>	9 - 10
<p>7. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THREE ELMS, 1 CANON PYON ROAD, HEREFORD. HR4 9QQ' - LICENSING ACT 2003</p> <p>To consider an application for variation of the premises licence in respect of Three Elms, 1 Canon Pyon Road, Hereford. HR4 9QQ.</p>	11 - 16
<p>8. APPLICATION FOR GRANT OF CLUB PREMISES LICENCE IN RESPECT OF - WELLINGTON SOCIAL CLUB, STONEY CLOSE, WELLINGTON, HR4 8AT - LICENSING ACT 2003</p> <p>To consider an application for grant of the club premises licence in respect of Wellington Social Club, Stoney Close, Wellington, HR4 8AT.</p>	17 - 20

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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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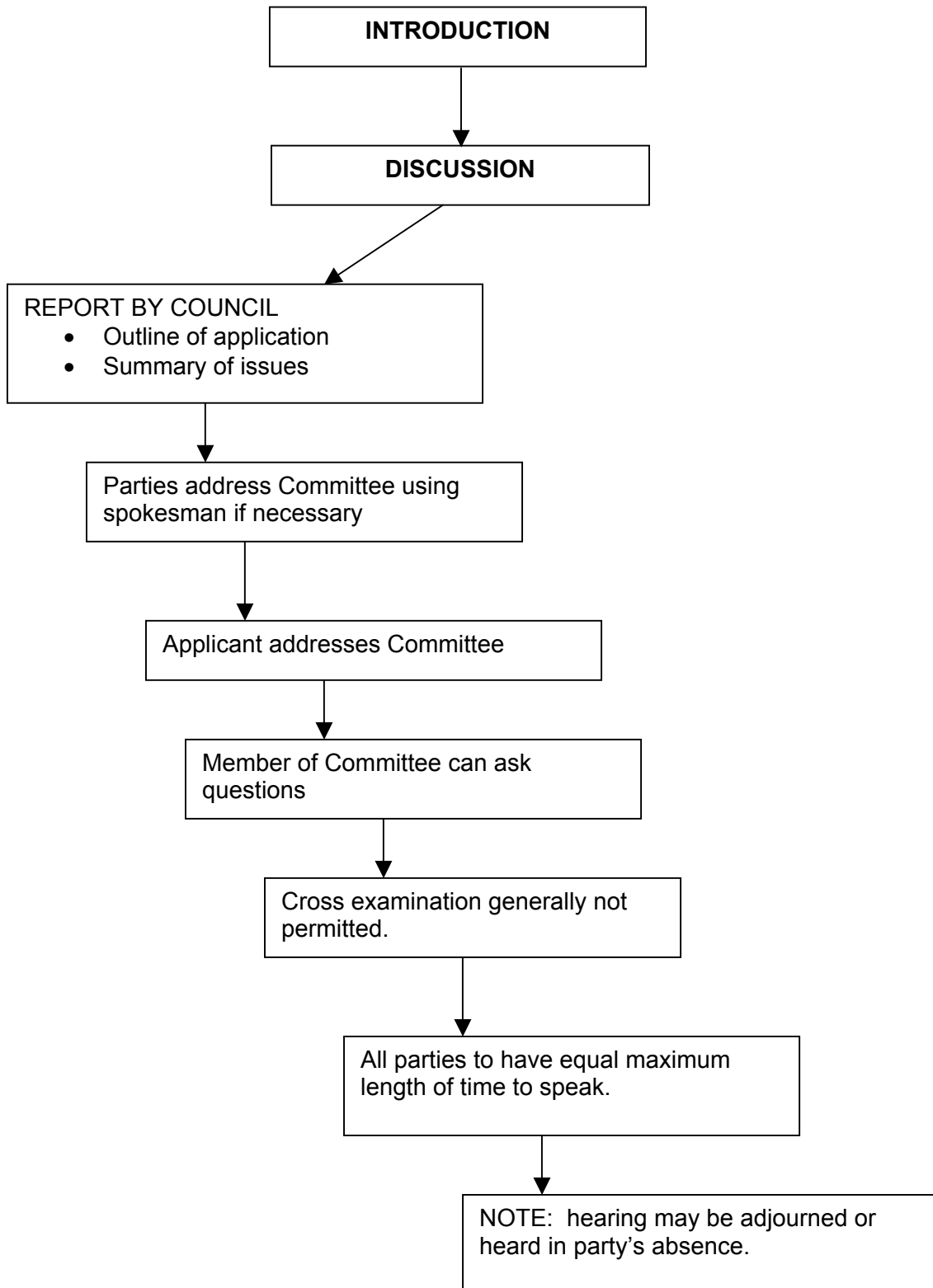
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LICENCING HEARING FLOW CHART



**APPLICATION FOR VARIATION OF PREMISES
LICENCE IN RESPECT OF 'THE LITTEN TREE,
COMMERCIAL ROAD, HEREFORD.
LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Central

1. Purpose

To consider an application for variation of the premises licence in respect of The Litten Tree, Commercial Road, Hereford, HR1 2BP

2. Background Information

Applicant	The Laurel Pub Company, Porter Tun House, 500 Capability Green, Luton, LU1 3LS		
Solicitor	Lester Aldridge, Russell House, Oxford Road, Bournemouth, BH8 8EX		
Type of application: Variation	Date received: 15/09/05	28 Days consultation 13/10/05	Issue Deadline: 14/11/05

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

3. Conversion Licence Application

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

Licensable activity	Hours	
Sale of alcohol on and off the premises	Mon-Sat Sun Good Friday Christmas Day New Years Eve	1000 to 2300 hours 1200 to 2230 hours 1200 to 2230 hours 1200 to 1500 hours and 1900 to 2230 hours. 36 hours
Children in Bars	Mon-Sat Sun	1100 to 1900 hours 1200 to 1900 hours in respect of the Library and Conservatory.

Live Music, Recorded Music, Performance of Dance	Mon to Sat	1100 to 2330 hours
	Sun	1200 to 2200 hours (Music Entertainment only)
	Sun	1900 to 2230 (Dancing where no admission charge is made)

With the following condition attached: -

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (Drinking up time).
- The maximum number of persons admitted to the premises shall be: 500
- The maximum number of visually identifiable stewards shall be: 4.
- The Standard Conditions for Licensing of Premises for Regulated Entertainment. [As specified in the outgoing public entertainment licence] (See Appendix)

4. **Variation Licence Application**

The application for a variation has received representations by responsible authorities and interested parties. It is therefore now brought before the Regulatory Sub-Committee for determination.

5. **Summary of Application**

The licensable activities applied for are: -

Films*

Indoor Sporting Events *

Live Music

Recorded Music

Performance of Dance *

Anything of a similar description to Live/Recorded Music or Performance of dance *

Provision for facilities for making music *

Provision for facilities for making dance *

Anything of a similar description to provision of facilities for making music or dancing *

Late Night Refreshment

Supply of Alcohol

(* Not previously licensed)

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

Monday to Sunday 0800 – 0100

7. The following hours have been applied for in respect of Indoor Sporting Events, (*All indoors*) Live Music, Performance of Dance, Anything of a similar description to Live/Recorded Music or Performance of dance, Provision of

facilities for making of music and dancing, Anything of a similar description to provision of facilities for making music or dancing: -
Monday to Sunday 1000 – 0100

8. The following hours have been applied for in respect of Late Night Refreshment: -
Monday to Sunday 2300 – 0100
9. In respect of hours premises open to the public are:-
Monday to Sunday 0800 – 0145

10. **Seasonal Variations**

The application requests seasonal variations in respect of all the activities applied for as follows: - New Year's Eve 36 hours change GMT to BST an additional hour; Bank Holiday Weekends Fridays to Mondays, on St Patrick's Day, St George's Day, St Andrew's Day and Valentine's Day and on the day before Christmas eve to Boxing Day (excluding Christmas Day) and New Year's Day – an additional hour, Christmas Day 1200 to 2300 hours.

In respect of hours premises open to the public:- an additional 45 minutes to the hours shown if appropriate for the licensable activities listed above.

11. **Non Standard hours**

The application requests non-standard timings in respect of all the activities applied for as follows: - 'On a maximum of 12 occasions a year, such hours as may be agreed by the Police for special occasions, the Police to have an absolute veto (not to be unreasonably withheld). At least 7 days notice of such a request will be given to the Council and Police'.

In respect of hours premises open to the public: - an additional 45 minutes to the hours shown if appropriate for the licensable activities listed above.

12. **Conditions requested to be removed**

- Current statutory restrictions on permitted hours, S77 Certificates, and Credit in particular
- PEL conditions terms and conditions
- All other current statutory restrictions under statutes governing the operation of liquor and PEL licensing in general

13. **Summary of Representations**

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

West Mercia Police

Representation has been received from West Mercia Police in respect of the application. They request a total of eleven conditions to address the licensing objectives of the prevention of crime and disorder.

They also comment upon the application for the 12 ad-hoc applications per year.

Environmental Health

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

In respect of Public Nuisance they seek four conditions to address the control of noise.

They also request one condition in respect of indoor sporting events and one in respect of films.

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

Fire Authority

The Fire Authority have made no comment.

Interested Parties

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

The concerns relate to:-

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

14. Herefordshire Council Licensing Policy

In making its decision the committee will be obliged to have regard to its own policy, the DCMS guidance and have regard to all documents specified within the DCMS Guidance.

15. Options: -

It is for the committee to take such steps below as it considers necessary for the promotion of the licensing objectives:

- Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003.
- Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it necessary for the promotion of the licensing objectives and add mandatory condition set out in the Licensing Act 2003.

- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To refuse to specify a person in the licence as the premise supervisor
- To reject the application.

16. **Background Papers**

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

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....

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 'THREE ELMS, 1 CANON PYON ROAD, HEREFORD. HR4 9QQ. (CONSIDERATION OF ADVERTISEMENT)' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Three Elms

1. Purpose

To consider whether the advertisement displayed at 'Three Elms, 1 Canon Pyon Road, Hereford. HR4 9QQ, notifying an application for variation of premises licence, complies with the requirements of The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

2. Background Information

Documentary evidence (contained within the background papers) has been submitted to the Licensing Authority by the person making representation to the effect that the notices displayed on the exterior of the premises did not comply with Section 26 paragraph 4 (d).

The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005

Section 25: Advertisement of applications

In the case of an application for a premises licence under section 17, for a provisional statement under section 29, to vary a premises licence under section 34, for a club premises certificate under section 71 or to vary a club premises certificate under section 84, the person making the application shall advertise the application, in both cases containing the appropriate information set out in regulation 26 -

(a) for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority, by displaying a notice,

(i) which is -

(aa) of a size equal or larger than A4,

(bb) of a pale blue colour,

(cc) printed legibly in black ink or typed in black in a font of a size equal to or larger than 16;

- (ii) in all cases, prominently at or on the premises to which the application relates where it can be conveniently read from the exterior of the premises and in the case of a premises covering an area of more than 50 metres square, a further notice in the same form and subject to the same requirements every fifty metres along the external perimeter of the premises abutting any highway;

Section 26, Paragraph (4) states: -

In all cases, the notices referred to in regulation 25 shall state -

(a) the name of the applicant or club;

(b) the postal address of the premises or club premises, if any, or if there is no postal address for the premises a description of those premises sufficient to enable the location and extent of the premises or club premises to be identified;

(c) the postal address and, where applicable, the worldwide web address where the register of the relevant licensing authority is kept and where and when the record of the application may be inspected;

(d) the date by which an interested party or responsible authority may make representations to the relevant licensing authority;

(e) that representations shall be made in writing; and

(f) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.

11. **Options: -**

It is a matter for Committee to decided whether the requirements as laid down in Section 25 and 26 of 'The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005' have been complied with.

There are two options available to the Committee: -

- To accept the advertisement as valid and to proceed to hear the application for variation of the premises licence
- Reject the advertisement and thereby reject the application under Section 35 (1) (b) as they are not satisfied that the applicant has complied with the requirements of the act and therefore the application is incomplete.

12. **Background Papers**

- Public Representation Form

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

**APPLICATION FOR VARIATION OF PREMISES
LICENCE 'THREE ELMS, 1 CANON PYON ROAD,
HEREFORD. HR4 9QQ' - LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Three Elms

1. Purpose

To consider an application for variation of the premises licence in respect of Three Elms, 1 Canon Pyon Road, Hereford. HR4 9QQ.

2. Background Information

Applicants	Greene King Brewing & Retailing Ltd		
Solicitor	N/A		
Type of application: Conversion Variation	Date received: 09/09/05	28 Days consultation 07/10/05	Issue Deadline: 08/11/05

The current justices licence and public entertainment licence for the premises have been seen and accepted. The newspaper advertisement has not been seen at this time.

3. Conversion Licence Application

The premises currently holds a Justices On Licence and public entertainment licence. 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.
Live Music, Recorded Music, Performance of Dance	Mon to Sat 1100 to 2330 hours Sun 1200 to 2200 hours (Music Entertainment only) Sun 1900 to 2230 (Dancing where no admission charge is made)

With the following condition attached: -

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (Drinking up time).
- The maximum number of persons admitted to the premises shall be 75.
- The minimum number of visually identified stewards shall be 3.

4. **Variation Licence Application**

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

5. **Summary of Application**

The licensable activities applied for are: -

Live Music

Recorded Music

Anything similar to Live Music or Recorded Music or Performance of Dance *

Provision of facilities for dancing

Late Night Refreshment *

Supply of Alcohol

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

(* Not previously licensed)

6. The following hours have been applied for in respect of Live Music, Recorded Music, Anything similar to Live Music or Recorded Music or Performance of Dance and Provision of facilities for dancing: -

Sunday 2230 – 2300

7. The following hours have been applied for in respect of Late Night Refreshment (*Indoors only*): -

Friday & Saturday 2300 – 0000

8. The following hours have been applied for in respect of supply of alcohol (*Both On & Off Premises*): -

Sunday to Thursday 1100 – 2300

Friday & Saturday 1100 – 0000

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

Monday to Thursday 1100 – 0010

Friday & Saturday 1100 – 0040

Sunday 1100 – 2340

10. **Non Standard hours**

The application applies for '**non-standard**' hours as follows: -

In respect of all the licensable activities, including hours premises are open to the members of the public: -

'Christmas Eve, Christmas Day, Boxing Day, Spring & August Bank Holidays, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, St Patrick's Day & St Georges Day, Proceeding & Preceding Day before a Bank Holiday – One Extra Hour. Any other publicly declared holiday – One Extra Hour.

11. Removal of Conditions

The application requests that the following conditions be removed: -
'The number imposed of 75 is quite low, this should be reassessed to 150.
Remove current restrictions under S168 of Licensing Act 1964.

15. Summary of Representations

The copies of the representations made and the letter of representation can be found within the background papers.

West Mercia Police

Have made no representation in respect of the application.

Fire Authority

The fire authority has made comments.

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 Protection of Children from Harm.

In respect of Public Nuisance they sought conditions in relation to the prevention of noise and vibration.

With regards to public safety, they recommended three conditions in respect of overcrowding.

They also sought three conditions in respect of the Protection of Children from harm.

All these conditions have been agreed by the applicant.

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 Public Nuisance

17. Issues for Clarification

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

The Applicants – Greene King Brewing & Retailing Ltd

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

Live & Recorded Music

No details have been shown under further details for live and recorded music. The applicant has been requested to provide further details and to state whether such music will be amplified or non-amplified.

Anything of a similar description to live or recorded music

The description of the type of entertainment shown under this section is already covered by live or recorded music. Therefore the applicant has been asked to explain what additional activities are to be covered.

Provision of facilities for dancing

Again no further details have been shown under this section. The applicant has been asked to provide details of the facilities that are to be provided.

Late Night Refreshment

No details are shown again under further details. The applicant has been asked to provide further information.

It is also noted that the application requests the provision of late night refreshment both indoors and outdoors. The applicant has been asked to provide further details regarding the provision outdoors.

Removal of Conditions

It is unclear from the application whether the applicant applies to remove the maximum number of people permitted on the premises, which is set at 75 and increase that 150. The applicant has therefore been requested to provide clarification.

18. Herefordshire Council Licensing Policy

In making its decision the committee will be obliged to have regard to its own policy, the DCMS guidance and have regard to all documents specified within the DCMS Guidance.

19. Options:-

It is for the committee to take such steps below as it considers necessary for the promotion of the licensing objectives:

- Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003.
- Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it necessary for the promotion of the licensing objectives and add mandatory condition set out in the Licensing Act 2003.
- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To refuse to specify a person in the licence as the premise supervisor
- To reject the application.

20. **Background Papers**

- Public Representation Form
- Environmental Health & Trading Standards Comments
- Application Form
- Any other associated papers
- Location Map

Background papers are available for inspection in The Shire Hall 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....

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 GRANT OF CLUB PREMISES
LICENCE IN RESPECT OF – WELLINGTON SOCIAL
CLUB, STONEY CLOSE, WELLINGTON, HR4 8AT -
LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Wormsley Ridge

1. Purpose

To consider an application for grant of the club premises licence in respect of Wellington Social Club, Stoney Close, Wellington, HR4 8AT.

2. Background Information

Applicant	Wellington Social Club		
Premises	Wellington Social Club, Stoney Close, Wellington, HR4 8AT		
Type of application: New	Date received: 09/09/05	28 Days consultation 07/10/05	Issue Deadline: 09/11/05

3. New Licence Application

The application for a new licence has received representations by responsible authorities. It therefore is now brought before committee to determine the application.

4. Summary of Application

The licensable activities applied for are: -

Films, Indoor Sporting Events, Live Music, Recorded Music, Performances of Dance, Making Music, Dance facilities, Supply of Alcohol.

5. The following hours have been applied for (*Indoors*) in respect of Films, Indoor Sporting Events, Live Music, Recorded Music, Provision of facilities for performance of dance, Dancing, Making Music, and Supply of Alcohol (indoors):

Monday - Saturday	1000 – 0100 hours
Sunday	1100 – 0000 hours

The following hours have been applied for in respect of hours club premises are open to members and guests:

Monday – Saturday	1000 – 0130 hours
Sunday	1100 – 0030 hours

6. **Non Standard hours**

The application applies for ‘**non-standard**’ hours as follows: -

Supply of Alcohol: New Years Eve – until 0200 hours.

Hours premises are open: New Years Eve – until 0230 hours.

Films: Out of hours sporting events eg World Cup, Televised World European Cup Football, Matches from abroad, boxing from abroad.

7. **Summary of Representations**

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

West Mercia Police

Have made representation in relation to the application in relation to the licensing objective of the prevention of crime and disorder.

They request ‘televised World and European football’ days to be applied for by way of Temporary Event Notices, and also wish to draw the applicants attention to the provisions of the licensing act 2003, and the prohibition on any visitor purchasing alcohol.

The applicant had not agreed the conditions at this stage.

Environmental Health

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

In respect of public safety they sought nine conditions in relation to eating utensils, glass containers, the control of number of persons in the premises, ventilation and heating, first aid, lighting, electrical installation, fire safety and gas installations.

In respect of public nuisance they sought five conditions in relation to noise and vibration.

In respect of protection of children from harm they sought one condition in relation to films and videos.

The applicant had not agreed the conditions at this stage.

8. **Issues for Clarification**

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

The Applicant – Wellington Social Club

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

Section L - Supply of alcohol, Televised world or European football – no times are given.

Explanation has been requested whether they want this on the licence and in what form as it is unclear from the application.

Supply of Alcohol and provision of facilities for dancing

The applicant has been asked to clarify whether this alcohol 'on the premises' and dancing 'indoors' as again this is unclear from the application.

9. 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 submitted in respect of the application.

10. 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.

11. Background Papers

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

Background papers are available for inspection in the Council Chamber, Town Hall, Hereford 30 minutes before the start of the hearing.

NOTES

Guidance issued under section 182 of the Licensing Act 2003, Section S18(7)

Relevant, vexatious and frivolous representations

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

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

Schedule 2 of the Licensing Act 2003 states: -

The provision of late night refreshment

- 1 (1) For the purposes of this Act, a person "provides late night refreshment" if-
- (a) at any time between the hours of 11.00 p.m. and 5.00 a.m., he supplies hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises, or
 - (b) at any time between those hours when members of the public, or a section of the public, are admitted to any premises, he supplies, or holds himself out as willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises

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.