

A G E N D A

Regulatory Sub Committee

Date: **Friday, 9th December, 2005**

Time: **10.00 a.m.**

Place: **The Council Chamber,
Brockington, 35 Hafod Road,
Hereford**

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

For any further information please contact:

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AGENDA

for the Meeting of the Regulatory Sub Committee

To: Councillors G.W. Davis, R.I. Matthews and R. Preece

	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 A NEW PREMISES LICENCE 'THE LIQUID LOUNGE, 48-50 ST OWENS STREET, HEREFORD, HR2 0AA.' To consider an application for a new premises licence in respect of 'The Liquid Lounge, 48-50 St Owens Street, Hereford, HR2 0AA.'	5 - 10
6. APPLICATION FOR VARIATION OF PREMISES LICENCE 'JACQUELINES NITE SPOT & JD'S BAR, 24 BROAD STREET, ROSS ON WYE, HR9 7ED.' To consider an application for variation of the premises licence in respect of 'Jacquelines Nite Spot & JD's Bar, 24 Broad Street, Ross on Wye, HR9 7ED.'	11 - 16
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8. APPLICATION FOR A NEW PREMISES LICENCE 'QUALITY FISH & CHIP SHOP & TANDOORI TAKEAWAY, 76-77 BYE STREET, LEDBURY, HR8 2AG.' To consider an application for a new premises licence in respect of 'Quality Fish & Chip Shop & Tandoori Takeaway, 76-77 Bye Street, Ledbury, HR8 2AG.'	21 - 26

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10.	APPLICATION FOR VARIATION OF PREMISES LICENCE 'BURTON COURT, EARDISLAND, LEOMINSTER, HR6 9DN'	31 - 36
	To consider an application for a new premises licence in respect of Burton Court, Eardisland, Leominster, HR6 9DN.	
11.	APPLICATION FOR VARIATION OF PREMISES LICENCE 'SUMMERHILL GOLF COURSE, CLIFFORD, HAY-ON-WYE, HR3 5EW'	37 - 42
	To consider an application for variation of the premises licence in respect of 'Summerhill Golf Course, Clifford, Hay-on-Wye, HR3 5EW.'	

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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- 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.
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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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APPLICATION FOR NEW PREMISES LICENCE 'THE LIQUID LOUNGE, 48-50 ST OWENS STREET, HEREFORD, HR2 0AA' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Central

1. Purpose

To consider an application for a new premises licence in respect of 'The Liquid Lounge, 48-50 St Owens Street, Hereford, HR2 0AA.'

2. Background Information

Applicant	Dalespire Ltd	
Solicitor	N/A	
Type of application:	Date received:	28 Days consultation
New	21/10/05	18/11/05

The advertisement for the premises has not been seen at this time. The notice on the premises has been inspected and it is noted that this states the hours are to be extended on Christmas Eve and New Years Eve by 1 hour.

3. New Licence Application

The application for a new licence has received representations from responsible authorities and interested parties. It therefore is now brought before the sub-committee to determine the application.

4. Summary of Application

The licensable activities applied for are: -

Live Music*

Recorded Music*

Performance of Dance*

Provision of facilities for dancing*

Supply of alcohol

(* Not previously licensed)

5. The following hours have been applied for (*Indoors Only*) in respect of all the licensable activities, including the supply of alcohol (*on premise*): -

Monday to Wednesday 1200 – 0000 hours

Thursday 1200 – 0100 hours

Friday & Saturday 1100 – 0100 hours

Sunday 1100 – 0030 hours

The premises to close 30 minutes after these times.

6. Seasonal Variations

The application requests seasonal variations on Christmas Eve of an additional 2 hours and on Bank Holiday Weekend and other Bank Holidays of 1 hour.

7. Summary of Representations

Copies of any representation and suggested conditions can be found within the background papers.

West Mercia Police

Have made representation in respect of the application. They seek assurance that the premises will be run as a club and raise a number of issues for clarification. They also seek nine further conditions.

Environmental Health

Environmental Health Officers have made representation in respect of this and object to the grant of the licence. Therefore there are no requested conditions.

Fire Authority

The Fire Authority has no representation to make.

Interested Parties

The Local Authority has received 1 petition containing 56 signatures. To assist; the petition is marked with the letter 'R' to the left of name in respect of those people who made also made a written representation, a total of 39 people did this.

The concerns relate to:

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

8. Issues for Clarification

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

Applicant – Dalespire Ltd

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

The application requests Seasonal Variations and the term 'Bank Holiday Weekend' is used. Clarification is sought that this is to include only the Saturday and Sunday

Licensing Objectives

The application states within the licensing objective of 'General' it is stated that 'The Liquid Lounge is a member's only club employing a strict code of conduct upon its members'. Clarification has been sought in respect of the control measures that are in place to ensure that general members of the public are not admitted to the premises.

It is noted that under the licensing objective of 'The prevention of crime and disorder' the words 'Membership Application Procedure' is shown. Full details have been requested in respect of this together with a copy of the rules of the club.

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. Other matters for consideration

The application states that on Christmas Eve and New Years Eve a 2 hour period is applied for in addition to the normal hours. The notice at the premises stated that this period was for 1 hour only not 2.

12. Background Papers

- Public Representation
- Application Form
- Location Plan

Background papers are available for inspection in the Council Chamber, Brockington, Hafod Road, 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....

Licensing Act 2003 SCHEDULE 8 – Paragraph 11***Opening hours***

11 (1) This paragraph applies where-

(a) within such period (of not less than six months) as may be specified, the holder of a justices' licence for any premises applies, in accordance with Part 3 of this Act, for the grant of a premises licence in respect of those premises, and

(b) the licence, if granted in the form applied for, would authorise the sale by retail of alcohol.

(2) In determining the application for the premises licence under section 18, the relevant licensing authority may not, by virtue of subsection (3)(b) of that section, grant the licence subject to conditions which prevent the sale of alcohol on the premises during the permitted hours.

(3) But sub-paragraph (2) does not apply where-

(a) there has been a material change in circumstances since the relevant time, and

(b) the relevant representations made in respect of the application include representations made by the chief officer of police for the police area (or any police area) in which the premises are situated advocating that, for the purposes of promoting the crime prevention objective, the premises licence ought to authorise the sale of alcohol during more restricted hours than the permitted hours.

(4) In this paragraph-

"permitted hours" means the permitted hours during which the holder of the justices' licence is permitted to sell alcohol on the premises under Part 3 of the 1964 Act;

"relevant representations" has the meaning given in section 18(6); and

"relevant time" means the time when the justices' licence was granted or, if it has been renewed, the last time it was renewed.

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 'JACQUELINES NITE SPOT & JD'S BAR, 24 BROAD STREET, ROSS ON WYE. HR9 7ED' - 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 'Jacquelines Nite Spot & JD's Bar, 24 Broad Street, Ross on Wye. HR9 7ED'.

2. Background Information

Applicant	Charmaine Nicola DANTER		
Solicitor	N/A		
Type of application: Variation	Date received: 21/10/05	28 Days consultation 18/11/05	Issue Deadline: 20/12/05

The advertisement for the premises has not been seen.

3. Current Premises Licence

The current premises licence allows the following: -

Jacquelines Nite Spot		
Licensable activity	Days	Hours
Live Music, Recorded Music and Provision of facilities for dancing. Supply of alcohol subject to the provision of the above activities and also substantial refreshment and where the supply of alcohol is ancillary to this.	Monday to Thursday	1100 to 0100
	Friday & Saturdays	1100 to 0200
	Bank Holiday Sunday (not Easter)	1100 to 0200
	Sundays	1900 to 0330
	Good Friday	1200 to 0200
	Christmas Day	1200 to 1500 & 1900 to 2230

JD's Bar		
Licensable activity	Days	Hours
Supply of alcohol	Monday to Saturday Sundays Good Friday Christmas Day New Year's Eve from end of permitted hours to start of permitted hours on following day	1100 to 2300 1200 to 2230 1200 to 2300 1200 to 1500 & 19:00 to 22:30
Supply of alcohol subject to the provision of substantial refreshment and where the supply of alcohol is ancillary to this.	Monday to Saturdays Sundays & Christmas Day Good Friday New Year's Eve from end of permitted hours to start of permitted hours on following day	1100 to 0000 1100 to 2330 1200 to 0000
Live Music, Recorded Music and Provision of facilities for dancing.	Monday to Thursday Friday & Saturday Sunday & Easter Sunday Bank Holiday Sundays Christmas Eve	1100 – 0100 1100 – 0200 1200 – 0030 1200 – 0200 1100 – 0100

4. Variation Licence Application

The application for a variation has received representations from 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: -

Indoor Sporting Events*

Live Music

Recorded Music

Performance of dance*

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

Provision of facilities for making music*

Provision of facilities for dancing

Supply of Alcohol

(*Not previously licensed)

6. The following hours have been applied for indoors only in respect of all of the above activities: -

Monday to Wednesday 1100 – 0200 hours

Thursday to Saturday 1100 – 0300 hours

Sunday 1100 – 0100 hours

The premises to close 30 minutes after these times.

7. Non Standard Timings

The application applies for non-standard timings on Christmas Eve, Boxing Day and New Years Day until 0300 hours in respect of all the licensable activities except indoor sporting events..

8. Conditions requested to be removed

The application requests a change of last entry time from 2330 hours to 0000 hours.

9. Summary of Representations

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

West Mercia Police

Have made representation in respect of the application. They have requested a total of twelve conditions to be attached to the licence to address the prevention of crime and disorder objective.

Environmental Health

Representation has been received from Environmental Health, who object to the grant of the application.

Fire Authority

The Fire Authority also made representation. Their concerns have now been addressed and the representation withdrawn.

Interested Parties

The Local Authority has received 18 letters of representation in respect of the application from a local resident.

The concern relates to: -

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

10. 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.

11. 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.

12. **Background Papers**

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

Background papers are available for inspection in the Council Chamber, Brockington, Hafod Road, 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 NEW PREMISES LICENCE 'JD'S CAFÉ, 24 BROAD STREET, ROSS ON WYE, HR9 7ED' - 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 a new premises licence in respect of 'JD's Café, 24 Broad Street, Ross on Wye. HR9 7ED.

2. Background Information

Applicant	Charmaine Nicola DANTER	
Solicitor	N/A	
Type of application:	Date received:	28 Days consultation
New	21/10/05	18/11/05

The advertisement for the premises has not seen at this time.

3. New Licence Application

The application for a new licence has received representations from interested parties. It therefore is now brought before committee to determine the application.

4. Summary of Application

The licensable activities applied for are: -
 Late Night Refreshment*
 Supply of alcohol (with person taking meals only)*
 (* Not previously licensed)

5. The following hours have been applied for (*Indoors Only*) in respect of all the licensable activities, including the supply of alcohol (*on premise*): -
 All Days 1000 – 0030 hours
 The premises to close 30 minutes after these times.

6. Seasonal Variations & Non Standard Hours

There is no request for any seasonal variation or non standard hours.

7. Summary of Representations

Copies of any representation can be found within the background papers.

West Mercia Police

Have no representation to make.

Environmental Health

Environmental Health Officers have made no representation in respect of this application providing that there is no entertainment and alcohol is only supplied with meals.

Fire Authority

The Fire Authority has no comment to make.

Interested Parties

The Local Authority has received 4 letters of representation in respect of the application, from local residents.

The concerns relate to:

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

8. 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.

9. 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.

10. Background Papers

- Public Representation
- Application Form
- Environmental Health Comments
- Location Plan

Background papers are available for inspection in the Council Chamber, Brockington, 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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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 NEW PREMISES LICENCE
'QUALITY FISH & CHIP SHOP & TANDOORI
TAKEAWAY, 76-77 BYE STREET, LEDBURY, HR8 2AG' -
LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Ledbury

1. Purpose

To consider an application for a new premises licence in respect of 'Quality Fish & Chip Shop & Tandoori Takeaway, 76-77 Bye Street, Ledbury. HR8 2AG'.

2. Background Information

Applicant	Mr. G. Pual Singh & Mrs. D.K. Paul	
Solicitor	N/A	
Type of application: New	Date received: 17/10/05	28 Days consultation 14/11/05

The advertisement for the premises has not seen at this time.

3. New Licence Application

The application for a new licence has received representations from interested parties. It therefore is now brought before committee to determine the application.

4. Summary of Application

The licensable activities applied for are: -
Late Night Refreshment *
(* Not previously licensed)

5. The following hours have been applied for (*Indoors Only*) in respect of Late Night Refreshment and the hours the premises are to open to the public: -
Friday & Saturday 2300 – 0000 hours

The premises to close at the same time of 0000 hours.

6. Seasonal Variations

The application requests the same hours on Bank Holidays, Christmas Eve & New Years Eve.

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

Have made no representation.

Environmental Health

Environmental Health Officers have made no representation.

Interested Parties

The Local Authority has received 5 letter of representation in respect of the application, from local residents.

The concerns relate to:

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

Copies of the representations can be found within the background papers.

8. Issues for Clarification

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

Applicant – Mr G Paul Singh & Mrs D K Paul

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

It is noted that the application requests the Provision of Late Night Refreshment to be both indoors and outdoors. Clarification is therefore sought of the details in respect of the provision outdoors.

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**

- Public Representation
- Application Form
- Location Plan

Background papers are available for inspection in the Council Chamber, Brockington, Hafod Road, Hereford 30 minutes before the start of the hearing.

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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....

PROVISION OF LATE NIGHT REFRESHMENT**Licensing Act 2003 SCHEDULE 2 - Section 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.

APPLICATION FOR NEW PREMISES LICENCE 'CORN SQUARE, LEOMINSTER' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Leominster

1. Purpose

To consider an application for a new premises licence in respect of Corn Square, Leominster.

2. Background Information

Applicant	Market Fairs & Street Trading, Herefordshire Council	
Solicitor	N/A	
Type of application: New	Date received: 14/10/05	28 Days consultation 11/11/05

The advertisement for the premises has not been seen at this time.

3. New Licence Application

The application for a new licence has received representations from an interested party. It is therefore now brought before the sub-committee for determination.

4. Summary of Application

The licensable activities applied for are: -
Supply of Alcohol (Off Premises only) *
(* Not previously licensed)

5. The following hours have been applied for: -

Saturday only 0700 – 1600
Restricted to the second Saturday of every month and the second & third Saturday in December.

6. Non Standard hours

The application requests 'Second Saturday of month, may be third Saturday in December'.

7. Summary of Representations

West Mercia Police

Have made representation no representation.

Environmental Health

Environmental Health Officers have made no representation.

Interested Parties

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

The concerns relate to:

- Prevent Crime & Disorder
- Prevention of Public Nuisance
- Protection of children from harm

8. 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.

9. 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.

10. Background Papers

- Public Representation
- Application Form
- Location Map

Background papers are available for inspection in the Council Chamber, Brockington, 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 NEW PREMISES LICENCE
'BURTON COURT, EARDISLAND, LEOMINSTER, HR6
9DN.' - LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Golden Cross with Weobley

1. Purpose

To consider an application for a new premises licence in respect of Burton Court, Eardisland, Leominster, HR6 9DN.

2. Background Information

Applicant	Burton Court Functions Ltd		
Solicitor	N/A		
Type of application: New	Date received: 18/10/05	28 Days consultation 15/11/05	Issue Deadline: 17/12/05

3. New Licence Application

The application for a new licence has received representations by responsible authorities and an interested party. It is therefore now brought before the Sub-Committee for determination

4. Summary of Application

The licensable activities applied for are: -

Plays *

Live Music *

Recorded Music *

Late Night Refreshment

Supply of Alcohol

(* Not previously licensed)

5. The following hours have been applied for in respect of Plays: -

Monday to Saturday 0900 – 0200

Sunday 0900 – 0000

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

Monday to Saturday 1100 – 0100

Sunday 1100 – 0000

7. The following hours have been applied for in respect of Late Night Refreshment (*Indoors only*): -
Monday to Saturday 2300 – 0200
Sunday 2300 – 0000
8. The following hours have been applied for in respect of Supply of Alcohol (*Both on & off premises*): -
Monday to Saturday 1200 – 0130
Sunday 1200 – 0000
9. The hours the premises will be open to the public are: -
Monday to Saturday 0900 – 0200
Sunday 1100 – 1230
10. **Non Standard hours**
There is no application for 'non-standard' hours.
11. **Summary of Representations**
Copies of the representations and suggested conditions can be found within the background papers.

West Mercia Police

Have no representation to make in relation to the application.

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 the Protection of children from harm.

The applicant has agreed to the suggested conditions.

Fire Authority.

The fire authority has made no comment.

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

12. **Issues for Clarification**

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

Applicant – Edward Simpson

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

Plays, Recorded Music, Live Music, Provision of Late Night Refreshment and Supply of Alcohol

It has been noted from the application that within the above activities applied for no details has been provided. In order for the Committee to decide what they may be licensing, the applicant has been asked to provide full details to the Committee.

Plays and Recorded Music

The application fails to indicate whether these activities will take place indoors or outdoors. Clarification in respect of this matter has been sought.

Plays and Hours Premises are open to the Public

The application states that on a Sunday the opening hours of the premises will be from 1100 hours, yet the hours applied for in respect of plays states 0900 hours. Clarification has been sought as the reason for this.

Hours Premises are open to the Public

It is noted that a terminal hour of 0200 hours is applied for which often coincides with the terminal hour for the licensable activities. Clarification has therefore been sought as to how the applicant intends to close the premises at the same time as the conclusion of the activities.

Hours Premises are open to the Public

Within the seasonal variations, under this part of the application it is stated 'Only organised parties in advance, no casual public entry to the venue'. Confirmation has been requested that the premises will not be open to the members of the public other than for pre-booked functions.

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.

17. **Background Papers**

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

Background papers are available for inspection in the Council Chamber, Brockington, 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....

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 'SUMMERHILL GOLF COURSE, CLIFFORD, HAY-ON-WYE, HR3 5EW' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Golden Valley

1. Purpose

To consider an application for variation of the premises licence in respect of 'Summerhill Golf Course, Clifford, Hay-on-Wye, HR3 5EW'.

2. Background Information

Applicant	David Clifford & Janet Elizabeth BOWEN		
Solicitor	N/A		
Type of application: Variation	Date received: 14/10/05	28 Days consultation 11/11/05	Issue Deadline: 13/12/05

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 with Club Conditions attached, but no public entertainment licence.

Licensable activity	Hours
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: -

Indoor Sporting Events*

Live Music*

Recorded Music*

Performance of dance*

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

Provision of facilities for dancing*

Late Night Refreshment

Supply of Alcohol

(*Not previously licensed)

6. The following hours have been applied for in respect of Indoor Sporting Events: -

All days 1900 – 0200 hours

7. The following hours have been applied for in respect of (*All Indoors & Outdoors*) Live Music, Recorded Music, Performance of Dance, Provision of facilities for dancing, Late Night Refreshment and the supply of alcohol (*both On & Off Premises*): -

Friday to Sunday 1900 – 0200 hours

8. The following hours have been applied for in respect of 'Anything similar to Live/Recorded Music/Performance of Dance' (*Indoors only*): -

All days 1600 – 0200 hours

9. The premises to open to members of the public as follows: -

Monday to Thursday 0800 – 2330 hours

Friday 0800 – 0230 hours

Saturday & Sunday 0700 – 0230 hours

10. Seasonal Variations

The application applies for seasonal variation of hours on New Years Eve, Christmas Eve, Bank Holidays and Club Anniversary Date of 1900 to 0300 hours in respect of all the activities applied for (except Indoor Sporting Events and Anything similar to Live/Recorded Music/Performance of Dance).

11. Conditions requested to be removed

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

12. 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

The Fire Authority also made representation. Their concerns have now been addressed and the representation withdrawn.

Interested Parties

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

The concern relates to:-

- Prevention of Public Nuisance

13. Issues for Clarification

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

Applicant – David Clifford & Janet Elizabeth BOWEN

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

Indoor Sporting Events

The application would appear to request only one event per year, which is shown as 'annual darts tournament'. Clarification has been sought that there will only be one event. The approximate date of the event has also been requested.

Performance of Dance

Further details have been requested in respect of this activity.

Anything similar to Live/Recorded Music/Performance of Dance

Within the 'further details' it is stated 'Quiz night, comedian & other speakers'. Clarification is sought that these are the only types of entertainment to which this section applies.

Seasonal Variations

It is noted that the application applies for a seasonal variation for 'Club Anniversary Date'. The date of this has been requested.

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 Representation
- Environmental Health & Trading Standards Comments
- Fire Officers Representation
- Application Form
- Location Plan

Background papers are available for inspection in the Council Chamber, Brockington, Hafod Road, 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.

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.