

APPLICATION FOR VARIATION OF PREMISES LICENCE 'Y ZONE, ROSS ON WYE YOUTH CENTRE, HILL STREET, ROSS ON WYE. HR9 7AD.' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Ross on Wye

1. Purpose

To consider an application for a premises licence in respect of Y Zone, Ross on Wye Youth Centre, Hill Street, Ross on Wye, HR9 7AD.

2. Background Information

Applicant	Community Youth Service (Herefordshire Council)	
Solicitor	N/A	
Type of application: New	Date received: 21/12/06	28 Days consultation 17/01/07

The advertisement for the premises has been seen and is correct.

3. Variation Licence Application

The application for a variation of a premises licence has received representations from responsible authorities and an interested party. It is therefore now brought before the sub-committee to determine the application.

4. Summary of Application

The licensable activities applied for are: -

Plays

Films

Live Music

Recorded Music

Performance of Dance

Provision of Facilities for Making Music

Provision of Facilities for Dancing

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

Monday – Saturday 1000 – 0000

Sunday 1200 – 0000

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

Monday – Saturday 1000 – 0000

Sunday 1200 – 2200

7. The following hours have been applied for in respect of Live Music, Recorded Music, Performance of Dance and Provision of Facilities for Making Music (Indoors): -
Monday – Saturday 0900 – 0000
Sunday 1000 – 2200
8. The following hours have been applied for in respect of Provision of Facilities for Dancing (Indoors): -
Monday – Friday 0900 – 0000
Saturday 1000 – 2200
9. The premises are to be open to the public: -
Monday – Saturday 0900 – 0000
Sunday 1000 – 2200
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.

Environmental Health

The Environmental Health Officer has made representations in relation to the application. This representation addresses the licensing objectives of Public Nuisance.

In respect of Public Nuisance they request 3 conditions to address any noise issues.

The applicant has agreed these 3 conditions.

Fire Authority.

The fire authority has no objection to the grant of the licence.

Interested Parties.

The Local Authority received one (1) letter of representation in respect of the application from local residents.

12. **Negotiation**

The Licensing Officer contacted the applicant in respect of the representations received.

The applicant agreed to the 3 conditions requested by the Environmental Health Officer and as a result she withdrew her representation.

The applicant was provided with a copy of the representation from the member of the public.

After discussion with the Licensing Officer the applicant agreed a terminal hour of 2300 hours on all licensable activities taking place between Monday and Saturday at the Premise.

The Licensing Officer spoke to the interested party who had made representation and advised them of this. As a result of this discussion the interested party agreed to withdraw the representation. She was asked to confirm this in writing, which she agreed to do.

On 2nd February, 2007 the Licensing Officer received a letter from the interested party (Attached in Background Papers) making it clear that she did not wish to withdraw her representation.

13. **Issues for Clarification**

This Authority has not requested clarification on any particular points.

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**

- Environmental Health & Trading Standards Comments
- Application Form
- Copies of representation from interested parties.
- Location plan

Background papers were available for inspection in the Council Chamber, Brockington, 35 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 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.