

APPLICATION FOR GRANT OF A VARIATION TO THE PREMISES LICENCE AT THE MONUMENT, HEREFORD HR4 0LT; - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Three Elms, Hereford

1. Purpose

To consider an application for a variation to a premises licence in respect of The Monument, Whitecross Road, HR4 0LT.

2. Background Information

Applicant	Greene King Retailing Ltd Hannah Loynds Abbott House, PO Box 337, Bury St Edmunds	
Solicitor	N/A	
Type of application: New	Date received: 1/02/07	28 Days consultation 28/02/07

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

3. Licence Application

The application for a variation to the premises licence has received representations from the Environmental Health Officer and local residents. It is therefore now brought before committee to determine the application.

4. Current Licence

The current licence was issued with the following licensable activities and hours.

Showing of a film; Monday to Saturday until 23.30

Not authorised on Christmas Day, Good Friday or on Sundays or other days appointed for Public Fasts and Thanksgiving or on any other day when the Licensing Authority may signify their desire in writing to the Licensee that the same should be closed.

A performance of live music; Other regulated entertainment;

Monday - Saturday 1100-2330

Sundays 1100 – 2300 for musical entertainment only

Sundays 1900 – 2300 for dancing where no admission charge made

Any playing of recorded music; Dancing

Monday - Saturday 1100-2330

Sundays 1100 – 2300 for musical entertainment only

Sundays 1900 – 2300 for dancing where no admission charge made

Provision of late night refreshment

Friday-Saturday: 23:00 - 00:00

Sale by retail of alcohol

Monday-Thursday, 11:00 - 23:00

Friday-Saturday: 11:00 - 00:00

Sunday: 11:00 - 23:00

Non Standard Timings:

Christmas Eve, Christmas Day, Boxing Day, New Years Day, Spring and August Bank Holidays, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, St. Patricks Day, and St. Georges Day, Proceeding and Preceding Day before a Bank Holiday - One Extra Hour

Any other public declared holiday One Extra Hour

The opening hours of the premises

Monday-Thursday, Sunday: 11:00 - 23:40

Friday-Saturday: 11:00 - 00:40

4. Summary of Application

Variation to the licensable activities applied for are: -

Films

Live Music

Recorded Music

Anything of a similar description

Facilities for Dancing

Late night refreshment

Sale of alcohol

Remove Condition for:-

- Regulated entertainment (excluding recorded music) to end at 23.00.
- The minimum of number of visually identifiable stewards shall be 3.
- The premises are permitted to be open for the said purposes from
Monday – Saturday 1100 – 2330
Sundays 1100 – 2300 for musical entertainment only
Sundays 1900 – 2300 for dancing where there is no admission charge made.

Amend condition

No children to be permitted on site to read - No children to be permitted on site after 2000.

- 5 The following hours have been applied for in respect of, Live Music, Recorded Music, anything similar (DJ, Disco, Karaoke), Provision of facilities for Dancing (Indoors): -
Monday – Tuesday 11.00 – 23.00
Wednesday – Sunday 11.00 – 00.00
- 6 The following hours have been applied for in respect of Late Night Refreshment (indoors and outdoors): -
Wednesday - Sunday 23.00- 00.00
- 7 The following hours have been applied for in respect the Supply of Alcohol of (Indoors and outdoors):-
Monday – Tuesday 11.00 – 23.00
Wednesday - Sunday 11.00 – 00.00
- 8 The Premises are open to the Public: -
Monday – Tuesday 11.00 – 23.40
Saturday - Sunday 11.00 – 00.40

9 **Non Standard hours**

Films, Live Music, Recorded Music, Anything of a Similar Description, Provision of facilities for dancing, Late Night Refreshment, Supply of Alcohol

An application for 'non-standard' hours have been applied for New Years Eve from the beginning of permitted hours on New Years Eve to the end of permitted hours on New Years Day.

10 **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

Have asked for additional information and has objected to the extension of hours and the request to remove the condition relating the number of identifiable stewards.

Fire Authority.

The fire authority has no objection to the grant of the licence but confirms the numbers of stewards that should be in attendance during Licensable events.

Interested Parties.

The Local Authority received eight (8) letters of representation in respect of the application from local residents.

13 Negotiation

The Licensing Officer has contacted the applicants in respect of the representations received. Copies of the representations from members of the public have been forwarded to the applicants.

14 Issues for Clarification

This Authority has requested clarification on the points raised in the Environmental Health Officers report: -

- (a) Extension of hours and what measures will be taken to safeguard local residents against noise disturbance.
- (b) Removal of existing condition which specifies the minimum number of visually identifiable stewards

15 Herefordshire Council Licensing Policy

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

16 Options: -

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

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

17 Background Papers

- 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.