

APPLICATION FOR A NEW PREMISES LICENCE SOUTH STREET STORES, LEOMINSTER, HR6 8JF; - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Leominster South

1. Purpose

To consider an application for a new premises licence in respect of South Street Stores, Leominster, Hereford, HR6 8JF.

2. Background Information

Applicant	Craig Bradbury	
Solicitor	N/A	
Type of application: New	Date received: 17/07/07	28 Days consultation 13/08/07

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

3. Licence Application

There was previously a shop on the site, the business closed several years ago. The new owner has applied for a premises licence to allow the sale of alcohol. Representations have been received from responsible authorities and local residents. It is therefore now brought before the sub-committee to determine the application.

4. Summary of Application

The licensable activities applied for are: -
Sale of alcohol

5 The following hours have been applied for in respect of the sale of alcohol (off the premises): -

Monday – Sunday 0600 –2100

6 The premises are to be open to the public: -

Monday – Sunday 0600 –2100

7 Non Standard Hours

None

8 Summary of Representations

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

9 West Mercia Police

Have no representation to make.

10 Environmental Health

Environmental Health Officers have made representation in relation to the prevention of public nuisance and the protection of children from harm.

11 Fire Authority.

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

12 Interested Parties.

The Local Authority received four (4) letters of representation in respect of the application from local residents. These were regarding safety and the fact that there are already two off licences nearby. Summaries of the licenses for Aldi and Somerfield in Leominster are included in the background papers.

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 not requested clarification on any particular points.

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.

Guidance issued under section 182 of the Licensing Act 2003

Section 6 deals with guidance relating to opening hours of shops and supermarkets and Section 3.51 provides advice regarding planning and other regulatory functions linked to planning see background papers document.