

**PRELIMINARY ISSUES CONCERNING THE APPLICATION FOR GRANT OF A PREMISES LICENCE IN RESPECT OF 'ROCK 'N' ROOTS 2008, RYE MEADOW, MUCH MARCLE, LEDBURY, HEREFORDSHIRE. (FIELD 4962)' - LICENSING ACT 2003**

**Report By: Acting Head Of Environmental Health And Trading Standards**

**Wards Affected:**

Old Gore

**1. Purpose**

For the committee to determine whether the application for a premise licence for 'Rock 'n' roots 2008, Rye Meadow, Much Marcle, Ledbury, Herefordshire, (Field 4962) is a lawful application which they have power to determine.

**2. Legislation – Licensing Act 2003**

Section 18 states that the Licensing Authority only has power to determine an application for a premises licence where: -

- (a) is made in accordance with section 17, and
- (b) they are satisfied that the applicant has complied with any requirement imposed on him under Section 17 (5) of that section.

Section 17 (3)(b) states that any application must be submitted with a plan of the premises to which the application relates, in the prescribed form,

Section 17 (5) states that the Secretary of State must by regulations:-

- (a) require an applicant to advertise his application within the prescribed period -
  - (i) in the prescribed form, and
  - (ii) in a manner which is prescribed and is likely to bring the application to the attention of the interested parties likely to be affected by it;
- (b) require an applicant to give notice of his application to each responsible authority, and such other persons as may be prescribed, within the prescribed period.

**3. Legislation – The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005**

Regulation 25 (Advertisement of applications) states:-

In the case of an application for a premises licence under section 17 the person making the application shall advertise the application:

- 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,

- 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; and

(b) by publishing a notice:-

- in a local newspaper or, if there is none, in a local newsletter, circular or similar document, circulating in the vicinity of the premises;
- on at least one occasion during the period of 10 working days starting on the day after the day on which the application was given to the relevant licensing authority.

Regulation 26 states: -

In the case of an application for a premises licence, the notices referred to in regulation 25 shall contain a statement of the relevant licensable activities which it is proposed will be carried on or from the premises.

Regulation 27 (Notice to responsible authority) states: -

In the case of an application for a premises licence under section 17 the person making the application shall give notice of his application to each responsible authority by giving to each authority a copy of the application together with its accompanying documents, if any, on the same day as the day on which the application is given to the relevant licensing authority.

#### 4. **Facts**

The Licensing Authority accepted the application for the premise licence on 10 July 2008. The 28 day period for advertising the event commenced on 11 July.

##### Serving on Responsible Authorities

Whilst the Licensing Authority received the application no copy was served on the Police other than by the Licensing Authority some days later.

##### Site Notice

At 0830 hours on Wednesday 23 July 2008 the Licensing Officer attended the location subject of the application. Upon entering the site, 1 notice was displayed (appendix 1) and this notice stated the following licensable activities:-

- Live music
- Dancing
- Sale and Supply of Alcohol

The field has a public footpath crossing it and no notices could be found at either end of the footpath.

Newspaper Notice

An advertisement appeared in the Worcester Evening News on 21 July 2008. Enquiries made by Council staff with the newspaper have indicated that there is no circulation of the newspaper in the Much Marcle area.

Enquires at the local post office confirm that they do not sell the paper nor does any other shop within Much Marcle.

**5. Committees Determination**

It is for the Committee to decide whether they are satisfied that the applicant has complied with requirements imposed on him by the Act and the Regulations.

**6. Options: -**

There are a two options available to committee: -

- To decide that the statutory requirements have been complied with and therefore to conclude that the Licensing Authority has power to determine the application
- To decide that the statutory requirements have not been complied with and therefore to conclude that the Licensing Authority has no power to determine the application.

**7. Background Papers**

- a. Copy of Photograph of Notice Displayed on the Premises
- b. Copy of the advertisement displayed in the newspaper
- c. Copy of email confirming attempted delivery of application to the police authority on 14 July 2008.

**Background papers are available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford, 30 minutes before the start of the hearing.**