

MEETING:	REGULATORY SUB - COMMITTEE
DATE:	29 SEPTEMBER 2010
TITLE OF REPORT:	APPLICATION FOR GRANT OF PREMISES LICENCE 'JAMSTAND 2010, CAROLINE SYMONDS GARDENS, ROSS ON WYE.' LICENSING ACT 2003
PORTFOLIO AREA:	ASSISTANT DIRECTOR (EHTS) PUBLIC HEALTH DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Ross-on-Wye & Llangaron

Purpose

To consider an application for a temporary premises licence in respect of the Jamstand 2010, Caroline Symonds Gardens, Ross on Wye.

Key Decision

This is not a key decision.

Recommendation

THAT Sub-Committee determine the application with a view to promoting the licensing objectives in the overall interests of the local community. They should give appropriate weight to:

- The steps that are necessary to promote the licensing objectives,
- The representations (including supporting information) presented by all parties,
- The guidance issued to local authorities under Section 182 of the Licensing Act 2003, and
- The Herefordshire Council Licensing Policy.

Key Points Summary

- It is a 'one-off' temporary premises licence.
- Licensed for 3 days (2 October to 4 October 2010).
- Licensed for up to 4,999.
- There have been representations from 'Responsible Authorities' which have not been withdrawn.
- No representations from interested parties.

Further information on the subject of this report is available from
Fred Spriggs – Licensing Officer 01432 383542

Options

- 1 a) 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,
- b) 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 conditions set out in the Licensing Act 2003,
- c) To exclude from the scope of the licence any of the licensable activities to which the application relates,
- d) To refuse to specify a person in the licence as the premise supervisor, or
- e) To reject the application.

Reasons for Recommendations

- 2 Ensures compliance with the Licensing Act 2003.

Introduction and Background

3 Background Information

Applicant	Jamstand Festival 88D, Hotwell Road, Bristol, BS8 4UB	
Solicitor	N/A	
Type of application:	Date received:	28 Days consultation
New Application	14/08/10	10/09/10

Licence Application

- 4 The application for a new premises licence has received representations from the Police, Environmental Health officer (Commercial), Environmental Health Officer (Pollution) and the Fire & Rescue Authority.

Summary of Application

- 5 The application is for a time limited licence to operate between 2 October to 4 October 2010.
- 6 The licensable activities applied for (all indoors and outdoors) are as follows, during the times shown: -
Live music, recorded music, performance of dance, anything of similar nature to live/recorded music or performance of dance, provisions for making music and provision of facilities for dancing: -

Friday (2 Oct); 12:00 – 00:00

Saturday (3 Oct); 12:00 – 00:00

Provision of Late Night Refreshment: -

Friday (2 Oct); 23:00 – 23:45

Saturday (3 Oct); 23:00 – 23:45

Sale by retail of alcohol: -

Friday (2 Oct); 12:00 – 23:45

Saturday (3 Oct); 12:00 – 23:45

Premises to be open to the public:-

Friday (2 Oct); 12:00 – 00:30

Saturday (3 Oct); 12:00 – 00:30

Summary of Representations

- 7 Copies of the representations and suggested conditions can be found within the background papers.
- 8 Representations have been received from the Environmental Health Officer (Pollution), the Environmental Health Officer (Commercial), the Police and the Hereford & Worcester Fire and Rescue Service.
- 9 The conditions suggested by the two Environmental Health Officers have been agreed but no agreement, at this time, has been reached in relation to the Police and Fire Authority representation. The representation made by the police is given as Appendix (b). The representation made by the Fire Authority is given as Appendix (c).

Interested Parties

- 10 No representations were received from any interested party.

Key Considerations

- 11 To consider what action should be taken, if any, to promote the four licensing objectives in accordance with the recommendation.

Community Impact

- 12 The decision made will have differing impacts on the community. If the application was to be granted it is difficult to gauge the extent of the impact. If the application was to be refused then clearly this will affect the large number of people who are likely to attend the event.

Legal Implications

- 13 The Committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.
- 14 The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, before the Honourable Mrs Justice Black.
- 15 In this case it was summed up that: -
A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.
- 16 Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.
- 17 This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL 648859 in which it was said:
'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.
- 18 It was further said in this case that the Licensing Authority have a duty:
'to translate the proposals contained in the operating schedule to promote the licence objectives into clear and understandable conditions'.
- 19 The conditions offered by the applicant will be translated and the following conditions will be attached to the licence by the Licensing Authority.

Prevention of Crime and Disorder

SIA registered door staff will be on site during the times that licensable activities take place on the licensed premises.

Stewards will be on site during the times that licensable activities take place on the licensed premises.

Public Safety

The premises licence holder will check that all electrical installations are certified by a competent electrician.

Copies of the certificates will be made available to Herefordshire Council prior to the use of facilities.

The Premises Licence Holder must take all reasonable steps to ensure that all temporary structures are suitable and fit for their intended purpose and installed in accordance with the competent contractor's plans.

Completion certificates will be provided to Herefordshire Council prior to the use of structures

Prevention of Public Nuisance

The sound pressure levels must be constantly monitored by Event Control throughout the duration of the event

Protection of Children from harm

Challenge 25 must be in operation at the premises and suitable signs to convey this must be displayed.

- 20 The attention of the Committee is drawn to The Regulatory Reform (Fire Safety) Order 2005 section 43 which in effect states that: -

At any time when this Order applies in relation to the premises, any term, condition or restriction imposed by the licensing authority has no effect in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under this Order.

- 21 Schedule 5 gives a right of appeal to: -

Rejection of applications relating to premises licences

1 Where a licensing authority—

- (a) rejects an application for a premises licence under section 18,
- (b) rejects (in whole or in part) an application to vary a premises licence under section 35,
- (c) rejects an application to vary a premises licence to specify an individual as the premises supervisor under section 39, or
- (d) rejects an application to transfer a premises licence under section 44,

the applicant may appeal against the decision.

Decision to grant premises licence or impose conditions etc.

2 (1) This paragraph applies where a licensing authority grants a premises licence under section 18.

(2) The holder of the licence may appeal against any decision—

- (a) to impose conditions on the licence under subsection (2)(a) or (3)(b) of that section, or
- (b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor).

(3) Where a person who made relevant representations in relation to the application desires to contend—

- (a) that the licence ought not to have been granted, or
- (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section,

he may appeal against the decision.

(4) In sub-paragraph (3) “relevant representations” has the meaning given in section 18(6).

- 22 Section 9 states that any such appeal must be made to a Magistrates Court for the area in which the premises are situated within 21 days of notification of the decision.

Consultees

- 23 Responsible authorities and persons living within the vicinity or with a business interest within the vicinity of the premises.
- 24 A copy of the application was served on the responsible authorities. This was backed up by an email sent to them by the Licensing Authority.
- 25 The notice of application was displayed on the premises prior to the start of the consultation period and for a period of 28 days. In addition, notice of the application was required to be published in a newspaper which was circulated within the vicinity of the premises.
- 26 The applicant has not produced a copy of the advertisement required by the legislation.

Appendices

- 27
 - a. Application Form
 - b. Representations from the Police
 - c. Representations from Fire Authority

Background Papers

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