

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	20 APRIL 2011
TITLE OF REPORT:	PRELIMINARY ISSUES CONCERNING THE APPLICATION FOR GRANT OF A PREMISES LICENCE IN RESPECT OF BIG CHILL FESTIVAL, EASTNOR CASTLE, DEER PARK, EASTNOR, LEDBURY. HR8 1RQ.' - LICENSING ACT 2003
PORTFOLIO AREA:	ENVIRONMENTAL HEALTH & TRADING STANDARDS PUBLIC HEALTH DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Ledbury

Purpose

1. For the committee to decide whether the application for a premise licence for 'Big Chill Festival, Eastnor Castle, Deer Park, Ledbury, HR8 1RQ' can be determined.

Legislation – Licensing Act 2003

2. Section 18 states that the Licensing Authority only has power to determine an application for a premises licence where: -
 - (a) it 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,

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

3. **Plans**
Regulation 23 — (1) An application for a premises licence under section 17, or a club premises certificate under section 71, shall be accompanied by a plan of the premises to which the application relates and which shall comply with the following paragraphs of this regulation.
 - (3) The plan shall show—
 - (f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
 - (i) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and

- (j) the location of a kitchen, if any, on the premises.

Advertisement of applications

Regulation 26 — (1) In the case of an application for a premises licence or a club premises certificate, the notices referred to in regulation 25 shall contain a statement of the relevant licensable activities or relevant qualifying club activities as the case may require which it is proposed will be carried on or from the premises.

(4) In all cases, the notices referred to in regulation 25 shall state—

- (a) the name of the applicant or club;
- (b) the postal address of the premises or club premises, if any, or if there is no postal address for the premises a description of those premises sufficient to enable the location and extent of the premises or club premises to be identified;
- (c) the postal address and, where applicable, the worldwide web address where the register of the relevant licensing authority is kept and where and when the record of the application may be inspected;
- (d) the date by which an interested party or responsible authority may make representations to the relevant licensing authority;
- (e) that representations shall be made in writing; and
- (f) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.

4. Facts

The Council's Statement of Licensing Policy (section 7.7) says that, upon receipt of an application, the Licensing Authority will write to the applicant to notify them when the 28 day consultation period should start and what date it must appear as an advertisement. This is to ensure that all aspects of the application are acceptable to the Licensing Authority before the applicant goes ahead with the public consultation exercise.

The Licensing Authority received the application for the premise licence on 23 February 2011. Festival Republic simultaneously placed the public advertisement without awaiting confirmation from the Council. The 28 day consultation period therefore started on 24 February and concluded on 23 March 2011.

At the time of submission the following items were not shown on the plan:

- (i) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (ii) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
- (jii) the location of a kitchen, if any, on the premises.

The applicant was subsequently contacted and advised of this and asked to supply the required information. Whilst most of the information was supplied, not all of the information was provided. The receipt of this information necessitated a short delay in contacting the various interested parties.

An issue in respect of the advertisement was raised with the applicant and his solicitor who took the opinion that the advertisement was correct and therefore did not change it.

5. Committee's 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 the site notice
- b. Plan submitted with application (available to view on day of Committee due to size)
- c. Copy of email in relation to plans

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.