

**Title of report:** Application for a grant of a premises licence in respect of Hereford Rugby Football Club, Wyeseide, Belvedere Lane, Hereford. HR4 0PH – Licensing Act 2003

**Meeting:** Licensing sub-committee

**Meeting date:** Friday 20 August 2021

**Report by:** Licensing Technical Officer

## **Classification**

Open

## **Decision type**

This is not an executive decision

## **Wards affected**

Hereford - Greyfriars

## **Purpose**

To consider an application for a grant of a premise licence in respect of Hereford Rugby Football Club, Wyeseide, Belvedere Lane, Hereford. HR4 0PH under the Licensing Act 2003.

## **Recommendation(s)**

That:

The 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:

- a) The steps that are appropriate to promote the licensing objectives,
- b) The representations (including supporting information) presented by all parties,
- c) The guidance issued to local authorities under Section 182 of the Licensing Act 2003, and
- d) The Herefordshire Council Statement of Licensing Policy 2020 – 2025.

## **Reasons for Recommendations**

Ensures compliance with the Licensing Act 2003

## Alternative options

1. There are a number of options open to the sub-committee:
  - 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 sub-committee considers it appropriate 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 refuse the application

## Key considerations

### Licence Application

2. The application for the grant of a premises licence has received relevant representations and is therefore brought before the sub-committee for determination.
3. Herefordshire Council Statement of Licensing Policy 2020 to 2025 states “All representation must be ‘relevant’, for example they must be about the likely effect of the grant of the application”. This followed paragraph 8.57 in the s182 Guidance which uses the same wording
4. The details of the application are:

Applicant	Hereford Rugby Football Club Ltd.	
Agent	TL Guys Ltd	
Type of application: Grant	Date received: 25 May 2021  28 day consultation started: 26 May 2021	28 Days consultation ended:  22 June 2021

## **Summary of Application**

5. The application (appendix 1) requests the grant of a premises licence to allow the following licensable activities, during the hours shown, as follows:

### Live Music (Indoors), Recorded Music (Indoors)

Monday – Thursday 12:00 – 23:00, Friday – Saturday 12:00 – 00:30

### Late Night Refreshment (Indoors/Outdoors)

Friday – Saturday 23:00 – 01:00

### Sale/Supply of Alcohol (consumption on and off the premises)

Sunday – Thursday 10:00 – 23:00

Friday – Saturday 10:00 – 01:00

### Non-Standard Timings

Terminal Hour extended to 01:00hrs on Christmas Eve, New Year's Eve, Valentine's Day, Bank Holidays, and Sundays preceding Bank Holiday Mondays.

Under the Live Music Act 2012 (as amended), an alcohol licenced premises can have live and/or recorded music from 08:00 – 23:00 for up to 500 people, without the need for these activities to be on a premises licence.

A set of conditions to promote the licensing objectives have been proposed by the applicant and will form as part of the licence if granted (Appendix 2).

## **Summary of Representations**

6. No representations were received from any of the responsible authorities, though Environmental Health made comment on the application and this can be found at Appendix 3.
7. 13 relevant representations have been received from members of the public that the licensing authority have accepted as being relevant. (Appendix 4).
8. One (1) representation was received after the end of the consultation. This has been rejected by the authority as being received out of time but will be kept on file.
9. The application was first brought to committee on 14 July 2021 for determination. The decision of that committee was to adjourn the meeting until 17 August 2021 at 10:00am which would allow for a site visit on 6 August at 16:00pm. The reason for the site visit was for the need to understand the location of the premises to fully consider the points made by the public representations and the applicant's agent.
10. The site meeting that was arranged for 6 August 2021 was adjourned due to not being quorate and took place on Tuesday 17 August 2021 at 10:00am, with the sub-committee hearing being postponed from 17 August 2021 at 10:00am to Friday 20 August 2021 at 10:00am.
11. On the 6 August 2021, the applicant and applicant's agent met with those who had made public representations at the premises. The details of this visit can be found at Appendix 5.

## **Community impact**

12. Any decision may have an impact on the local community.

## **Environmental Impact**

13. This report is in relation to a premises license under the Licensing Act 2003 and as such there are minimal environmental impacts for the council, as licensing authority.

## **Equality duty**

14. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
15. There are no equality issues in relation to the content of this report.
  16. This report has human rights implications for both the premises licence holder and the residents from the local neighbourhood. Any of the steps outlined in section 1 of this report may have financial implications for a licensee's business and livelihood and/or may have impact upon the day to day lives of residents living in close proximity to the premises.
  17. Article 8(i) of the European Convention of Human Rights provides that everyone has the right to respect for his/her private and family life and his/her home (which includes business premises). This right may be interfered with by the council on a number of grounds including the protection of rights and freedoms of others. The First Protocol – Article 1 – also provides that every person is entitled to the peaceful enjoyment of his possessions and shall not be deprived of his possessions except in the public interest and conditions provided for by law. Members must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.

## **Resource implications**

18. This report is in relation to a premises license under the Licensing Act 2003 and as such there are minimal resource implications for the council, as licensing authority.

## **Financial implications**

19. There are unlikely to be any financial implications for the council, as licensing authority at this time.

## **Legal implications**

20. As relevant representations have been received, the sub committee must determine the application under Section 3.5.7 (c) of the Herefordshire Council constitution. The representations must relate to the licensing objectives and the sub committee must determine the likely effect of the grant of the premises licences on the promotion of the licensing objectives.
21. The licensing authority must have regard to the promotion of the four licensing objectives namely; the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm in exercising its functions under the Licensing Act 2003. Further regard should be had to the statutory guidance under Section 182 of the Act and the Council's own statement of licensing policy. The options available to the licensing authority are set out in section 1 of this report.
22. The sub committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.
23. 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. In this case it was summed up that: -
24. 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.
25. 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.
26. 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:
27. 'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.
28. In addition to this it was stated that any condition attached to the licence should be an enforceable condition.

## **Right of Appeal**

26. Schedule 5 of the Licensing Act 2003 gives a right of appeal which states:  
Decision to grant premises licence or impose conditions etc.
  - (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).
27. Appeals should be made to the Magistrates Court and must be made within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against

## **Risk management**

28. There is little risk associated with the decision at this time as the legislation allows a right of appeal to the Magistrates Court within a period of 21 days of being notified of the decision in writing.

## **Consultees**

29. All responsible authorities and members of the public living within Herefordshire.

## **Appendices**

Appendix 1 - Application Form  
Appendix 2 – Proposed Conditions  
Appendix 3 – Environmental Protection Comment  
Appendix 4 – Public representations  
Appendix 5 – Details of on-site visit between applicant and members of the public that made relevant representations.

## **Background papers**

None Identified