

## 5 APPLICATION FOR VARIATION OF PREMISES LICENCE IN RESPECT OF PLAY NIGHTCLUB, 51-55 BLUESCHOOL STREET, HEREFORD. LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Central

### Purpose

1. To consider an application for variation of the premises licence in respect of Play nightclub, 51-55 Blueschool Street, Hereford. HR1 2AR

### Background Information

2.

Applicant	R & B Leisure		
Solicitor	N/A		
Premise	Play 51-55 Blueschool Street , Hereford		
Type of application: <b>Conversion Variation</b>	Date received: <b>15/05/05</b>	28 Days consultation <b>13/7/05</b>	Issue Deadline: <b>15/08/05</b>

### Conversion Licence Application

3. A conversion licence, on receipt of all the Justices Licences, will be issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon to Thurs – 1100 am - 0100 am Fri & Sat – 11am – 0130 am Sun 12 midday – 2230 pm
Late night refreshment	Mon to Sat 1100 – 0130 am Sun & Good Friday – 1200 and 2300 Christmas day - Midday – 1530 & 1900 - 2300
Live Music, Recorded Music, Performance of Dance	Mon to Thurs 1100 am – 01.00am Frid- Sat 1100 – 0130 Sun – Bank Holidays until – 12.30 the following morning except where Sunday

	precedes a Bank Holiday where hours are extended to 01.30am
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With the following conditions are attached:-

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (mentioned above)
- The maximum number of persons admitted to the premises shall be: 916 Ground Floor First Floor Mezzanine Area 100
- The maximum number of visually identifiable stewards shall be : Ground Floor 6 First Floor 2.
- The Standard Conditions for Licensing of Premises for Regulated Entertainment. [As specified in the outgoing public entertainment licence] (See Appendix A).

### **Variation Licence Application**

4. The application for a variation has received representations by responsible authorities therefore is now brought before the committee to determine the application.  
At the time of print it is believed that the application should read as follows;

### **Summary of Application**

5. The licensable activities applied for are: -  
Films  
Live Music  
Recorded Music  
Anything similar eg peripheral entertainers, stilt walkers, fire eaters, dancers  
Provision of facilities for dancing  
Supply of Alcohol  
Provision of table dancing  
Hour's premises open to the public (Not licensable on it's own)
6. The following hours have been applied for in respect of the licensable activities shown above:-  
Monday 1000 – 0300  
Tuesday 1000 – 0300  
Wednesday 1000 – 0300  
Thursday 1000 – 0400  
Friday 1000 – 0400  
Saturday 1000 – 0400  
Sunday 1200 noon – 0200

7. The hours applied for the premises be open to the public are: -
- |           |             |
|-----------|-------------|
| Monday    | 2100 – 0300 |
| Tuesday   | closed      |
| Wednesday | Closed      |
| Thursday  | 2100– 0400  |
| Friday    | 2100 – 0400 |
| Saturday  | 2100 – 0400 |
| Sunday    | 2100 – 0300 |

The application has indicated the premises will be open on Tuesday and Wednesday for an occasional private party.

### **Non Standard hours**

8. The application applies for '**non-standard**' hours.

New years Eve 24 hours  
New Years Day 24 hours  
Christmas Eve 02.00 am  
Bank Holiday Sundays until 3 am

### **Public Entertainment Licence Conditions**

9. The applicant has confirmed that the current Public Entertainment Licence conditions will continue a copy of these are attached as **appendix A**.

### **Summary Of Representations**

#### **10. West Mercia Police**

The police seek clarification on whether Play intend to remove any of the embedded conditions attached to the Justices on licence and the Section 77 Special Hours Certificate that currently the operation of Play Nightclub.

In order to promote the licensing objectives and in particular, with a view to preventing crime and disorder, The police seek that the licensing authority impose the conditions as stated in **appendix B and C**.

Due to applicant not submitting application to the police until 1 July 2005, it was agreed by all parties that the police's 28 day consultation period should be taken from this date.

#### **11. Representations form the businesses and the public.**

Herefordshire Council has received 6 letters objecting to the proposals, one from the Hereford City Partnership Manager and 5 from interested parties – one of which is on behalf of a neighbouring business.

The concerns relate to:

- Additional Nuisance and environmental impact on area
- Noise late at night /early morning
- Alcohol related incidents

Copies of representations are attached as **appendix D to I**

## **12. Environmental Health**

Environmental Health Officers have made representations in relation to the extension of operating hours and noise emanating to neighbouring dwellings. **appendix J and K.**

Environmental Health also express concerns in relation to Play Nightclub's acoustic report.

### **GENERAL**

Fire & Electrical Safety

Maximum number of persons on the premises

### **PUBLIC SAFETY**

Ventilation and air conditioning

First aid

Lighting

Electrical installation

Fire safety

Exit doors

Gas installations

### **PREVENTION OF NUISANCE**

Noise

Odours

Refuse

Lighting

### **PROTECTION OF CHILDREN FROM HARM**

Proof of Age

Restrictions on access by children shall be conspicuously displayed throughout premises.

## **13. Fire Authority.**

The fire authority have made no representations.

## **Request for further information**

14. The applicant has been asked to provide the following information for this committee hearing.
- A) Please give details of the local address of the Designated Premises Supervisor (Page 4).
  - B) Non-Standard Times (Page 12-15)
    - i) Please confirm which hours and on what occasions the premises will be made available for hire for occasional private hires on Tuesdays and Wednesdays when the premise is not open to the public as indicated in Box O on page 17.
    - ii) Please clarify the statements 'At times detailed in proposed variations' under Boxes F - page 12, Box H – page 13 and Box J – page 14.
  - C) Please indicate on the plan the height of the steps on to the dance floor and the height of the steps up to the DJ area.
  - D) Additional Items
    - i) Please produce a copy of the Special Hours Certificate, certified as a true copy by either the chief executive of the licensing justices, by a solicitor or notary, or by a person of a specified description.
    - ii) Please confirm on page 15 – Box L (Late Night Refreshment) whether you wish to include this as part of your application or has the box been deleted.
  - E) Imbedded Conditions

Please clarify if this application is seeking to remove any of the imbedded conditions that are currently attached to the Justice's 'on licence', and Section 77 Special Hours Certificate, that currently govern the operation of this nightclub.

### **Herefordshire Council Licensing Policy**

14. 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.

### **Options:-**

15. 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.

### **Background Papers**

- Standard Conditions for Licensing for Public Entertainment
- Police Authority comments
- Public Representation forms
- Environmental Health and Trading Standards Comments
- Application Form
- Any Other Associated Papers

**Background papers are available for inspection in the Meeting Room, Brockington 30 minutes before the start of the hearing.**

### **NOTES**

#### **1. Relevant, vexatious and frivolous representations**

##### **Guidance issued under section 182 of the Licensing Act 2003, Section S18(7)**

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....

## 2. Ad-hoc events

The application applies for extension by one hour before and one hour after the transmission of an international event, the details of which will be notified to the police 10 days beforehand.

### **DCMS Guidance**

*Under Section 182 of the Licensing Act 2003 The Secretary for Culture, Media & Sport (DCMS) issued Guidance in respect of the Act.*

*Paragraph 6.11 is titled 'Relaxation of opening hours for local, national and international occasions'. The guidance in respect of this is that it will be open to the Secretary of State to extend hours on these special occasions .e.g. World Cup*

### **ACPO Guidance**

*The Association of Chief Police Officer (ACPO) have issued a letter in respect of this matter which states 'To maintain a consistent approach across the country ACPO suggest that Constabularies consider the following approach in relation to these applications - No more than 12 extensions per premises per year (excluding applications made under TENS) should be allowed.*

*A minimum of 7 days notice to police and the licensing authority.*

*An absolute veto for police in respect of any of these occasions.*

*It is, of course, open to all the other responsible authorities to raise objections if they consider it necessary."*

### **West Mercia Police**

It is known that the West Mercia Police do not endorse this guidance issued by ACPO. PC Steve Thomas will explain to the committee the current position for their perspective.

### **Section 17 (4) (b) Licensing Act 2003**

An operating schedule is a document, which is in the prescribed form and includes a statement of the times during which it is proposed that the relevant licensable activities are to take place.

### **Guidance issued under section 182 of the Licensing Act 2003.**

5.46 operating schedule... an operating schedule should include information which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory...

- An operating schedule must set out the times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular

holiday periods and during particular seasons, it is likely that the times would be different during different parts of the year.

### **3. 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.