

APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE FULL PITCHER, THE WHARFE, LEDBURY. HR8 2EN' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Ledbury

1. Purpose

To consider an application for variation of the premises licence in respect of The Full Pitcher, The Wharfe, Ledbury, HR8 2EN.

2. Background Information

Applicant	Martin Terence WELLS		
Solicitor	N/A		
Premise	The Full Pitcher, The Wharfe, Ledbury. HR8 2EN.		
Type of application: Conversion Variation	Date received: 27/06/05	28 Days consultation 25/07/05	Issue Deadline: 27/08/05

3. Conversion Licence Application

The premises currently only holds a Justices On Licence and no other licence. A conversion licence, will be issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon-Sat 1100 to 2300 hours Sun 1200 to 2230 hours Good Friday 1200 to 2230 hours Christmas Day 1200 to 1500 hours and 1900 to 2230 hours. New Years Eve 1100 hours to 2300 hours New Years Day
Late night refreshment	Mon-Sat 2300 to 2330 hours New Years Eve 2300 to 2330 hours New Years Day

With the following condition attached:-

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (Drinking up time).

4. **Variation Licence Application**

The application for a variation has received representations by responsible authorities and also members of the public. It therefore is now brought before the committee to determine the application.

5. **Summary of Application**

The licensable activities applied for are: -

Films

Indoor Sporting Events

Live Music

Recorded Music

Performance of Dance

Anything similar to Live Music, Recorded Music or Performance of Dance

Provision of facilities for making music

Provision of facilities for dancing

Late Night Refreshment

Supply of Alcohol

Hour's premises open to the public (Not licensable on it's own)

6. The following hours have been applied for in respect Films, Indoor Sporting Events, Recorded Music, Provisions of facilities for Dancing, Supply of Alcohol: -

Monday 0800 – 0000

Tuesday 0800 – 0000

Wednesday 0800 – 0000

Thursday 0800 – 0000

Friday 0800 – 0100

Saturday 0800 – 0100

Sunday 0800 – 0100

7. The following hours have been applied for in respect Live Music, Performance of Dance, Anything of a similar nature to Live & Recorded Music or Performance of Dance and The Provision of facilities for Making Music: -

Monday 1000 – 0000

Tuesday 1000 – 0000

Wednesday 1000 – 0000

Thursday 1000 – 0000

Friday 1000 – 0000

Saturday 1000 – 0000

Sunday 1000 – 0000

8. The following hours have been applied for in respect Late Night Refreshment

Monday 2300 - 0030

Tuesday 2300 - 0030

Wednesday 2300 - 0030

Thursday 2300 - 0030

Friday 2300 - 0130

Saturday 2300 - 0130
Sunday 2300 - 0130

9. The hours that the premises will be open to members of the public

Monday 0800 - 0030
Tuesday 0800 - 0030
Wednesday 0800 - 0030
Thursday 0800 - 0030
Friday 0800 - 0130
Saturday 0800 - 0130
Sunday 0800 - 0130

11. **Non Standard hours**

The application applies for 'non-standard' hours.

In respect of Films, Indoor Sporting Events, Recorded Music, Performance of Dance, Anything of a similar nature to recorded music or performance of dance, Provision of facilities for making music, Provision of facilities for dancing and late night refreshment the applicant has stated the following: - 'When opening hours are extended on Bank Holidays. These hours will follow the opening hours'.

In respect of the supply of alcohol: -

9.00 New years Eve to 0100 The Following Morning New Years Day
10.00 - 0100 (The Following Day) on Friday, Saturday, Sunday and Monday on Bank Holiday Weekends. Christmas Eve and Boxing Day

In respect of hours premises open to the public: -

08.00 Opening And/Or 0130 closing on the non standard days listed in Section M (*Supply of Alcohol*)

12. **Removal of Conditions**

The applicant has applied to remove all embedded restrictions inherent in the Licensing Act 1964, The Cinematograph (Safety) Regulations 1955 and The Children and Young Persons Act 1933.

13. **Summary of Representations**

West Mercia Police

Have made comments in respect of the installation of CCTV and appropriate signage.

Environmental Health

Environmental Health Officers have made representations in relation to the application. This representation addresses three of the four licensing objectives.

In respect of Public Nuisance they seek conditions in relation to the prevention of noise.

With regards to public safety, they recommend some general conditions as well as conditions in relation to; Gas & Electrical Safety, Fire Safety, Lighting, Pets and First Aid. With regard to the licensable activities of Indoor Sporting Events and Films they recommend a further two conditions.

They also request a further three conditions to address the objective of 'Protection of Children from harm.

Interested Parties

The Local Authority has received 3 letters of representation in respect of the application, two from local residents and one from a Neighbourhood Watch Co-ordinator.

The concerns relate to:

- The Prevention of Crime & Disorder
- Public Safety
- Prevention of Public Nuisance

14. Fire Authority.

The fire authority have no objection.

15. Issues for Clarification

This Authority has requested clarification on particular points from the parties shown.

The Applicant – Martin Wells

Has been requested to provide clarification in respect of matters contained within his application, regarding the following activities: -

Films

The type and certification of the videos to be shown on the premises

Indoor Sporting Events

The type of pub games the premises will be used for and whether spectators will be seated or not. If seat the number of seats to be provided.

Performance of Dance

The type of dance that will be performed on the premises and the number of dancers likely to be involved in the performance.

Provision of facilities for making music

The type of equipment at the premises for the making of music

Provision of facilities for dancing

Whether or not the premises have a clearly defined dance floor.

Anything of a similar description to Live Music, Recorded Music and Performance of Dance.

Whether it is intended that the premises should be used for any other activity than as shown within the description of the type of entertainment to be provided.

Clarification has also been asked for in respect of the actual hours the applicant applies for on Bank Holidays in respect of films, indoor sporting events, recorded music, performance of dance, anything of a similar nature to live music, recorded music or performance of dance, provision of facilities for making music, provision of facilities for dancing and late night refreshment.

The application also contained a risk assessment and the applicant has been asked whether or not the action required in respect of each identified risk is to be included as a condition on the licence. (*Appendix 7*)

All Interested Parties

Whether or not they can state we absolute certainty that their representation relates to the customers of the Full Pitcher.

16. **Other Matter for Consideration**

At the end of the 28 day representation period, no representation had been received from the police. As a result they were contacted and it transpired that they never received a copy of the application. The Police have subsequently made representation although outside the 28 day period.

17. **Herefordshire Council Licensing Policy**

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.

18. **Options:-**

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

- 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 Council Chamber, Brockington, 30 minutes before the start of the hearing.

NOTES

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

Relevant, vexatious and frivolous representations

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....

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.