

## 5 APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE SALMON INN, HAMPTON PARK ROAD, HEREFORD. HR1 1TQ' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Tupsley

#### 1. Purpose

To consider an application for variation of the premises licence in respect of The Salmon Inn, Hampton Park Road, Hereford. HR1 1TQ.

#### 2. Background Information

Applicant	<b>Robert Phillip KITE &amp; Dorothy Margaret KITE</b>		
Solicitor	<b>N/A</b>		
Premise	<b>The Salmon Inn, Hampton Park Road, Hereford. HR1 1TQ</b>		
Type of application: <b>Conversion Variation</b>	Date received: <b>11/07/05</b>	28 Days consultation <b>07/08/05</b>	Issue Deadline: <b>10/09/05</b>

The justices' licence for the premises has been seen and accepted. The press advertisement at the time of this report has not been seen.

#### 3. Conversion Licence Application

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

<b>Licensable activity</b>	<b>Hours</b>
Sale of alcohol on and off the premises	Mon-Sat 1000 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 1000 hours to 2300 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).

The Premises currently does not have a Public Entertainment Licence.

#### 4. **Variation Licence Application**

The application for a variation of the premises licence has received representations by responsible authorities and also members of the public. It is therefore now brought before the sub-committee for determination.

#### 5. **Summary of Application**

The licensable activities applied for are: -

Films\*

Live Music \*

Recorded Music \*

Supply of Alcohol

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

(\*Not previously licensed)

6. The following hours have been applied for in respect Films (*Not Known whether Indoors or Outdoors or Both*), Live Music (*Both Indoors & Outdoors*), Recorded Music (*Both Indoors & Outdoors*) and Supply of Alcohol (*On premises only*): -

Monday to Thursday 1100 – 2300

Friday & Saturday 1100 – 0200

Sunday 1200 – 2300

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

Monday to Thursday 1100 – 2330

Friday & Saturday 1100 – 0230

Sunday 1200 – 2330

#### 8. **Non Standard hours**

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

In respect of all the films, the supply of alcohol and the hours premises open to the public: -

Sunday & Monday Bank Holiday Weekends, Christmas Eve & Boxing Day  
Hours will be 1100 – 0200.

In respect of live & recorded music: -

Sunday & Monday Bank Holiday Weekends, Christmas Eve & Boxing Day  
Hours will be 1100 – 0200.

New years Eve 1100 – 0200

#### 9. **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.

## 10. Summary of Representations

### **West Mercia Police**

Made comments but conditions have now been offered by the applicant which address these and therefore their representation is withdrawn.

### **Environmental Health**

Environmental Health Officers have made representations in relation to the application. This representation contains some general conditions as well as addressing the licensing objectives of Public Nuisance, Public Safety and The Protection of Children from Harm.

The general conditions address; maximum numbers, overcrowding, fire safety and a staff register.

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

In respect of the Protection of Children from Harm they seek conditions relating to proof of age and accompanying notices.

In respect of Public Safety they seek some General Conditions, as well as conditions to address Overcrowding, Ventilation, First Aid, Accidents, Lighting, Electrical Installation, Fire Safety, Gas Installation and Cinema Safety Conditions.

At the time of this report no negotiation had take place in respect of these conditions.

### **Interested Parties**

The Local Authority has received 2 letters of representation in respect of the application, from local residents.

The concerns relate to:

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

## 11. Fire Authority.

The fire authority has no representation to make.

## 12. Issues for Clarification

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

### The Applicants – Robert & Dorothy KITE

Have been requested to provide clarification in respect of matters contained within their application, regarding the following: -

How the applicant intends to manage the closure of the premises when the 'Non-Standard Timings' apply and the activities conclude at the same time the premises closes.

#### *Films*

The full details of the type and certification of the films to be shown on the premises and whether indoors, outdoors or both.

#### Environmental Health Officer

Whether any complaints regarding noise have been received in respect of the Salmon, particularly relating to July, 2005.

### 13. **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.

### 14. **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.

### 15. **Background Papers**

- Public Representation Form
- Fire Authority Comments
- Police Authority Comments
- Environmental health & Trading Standards Comments
- Application Form

**Background papers are available for inspection in Committee Room 1, The Town Hall 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.