

APPLICATION FOR VARIATION OF PREMISES LICENCE 'SELLACK VILLAGE HALL, SELLACK, ROSS ON WYE. ' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Llangarron

1. Purpose

To consider an application for variation of the premises licence in respect of Sellack Village Hall, Sellack, Ross on Wye.

2. Background Information

Applicant	Gordon Roy Francis LEWIS & Rose KIMBLE		
Solicitor	Thorpe & Thorpe, Ross on Wye		
Premise	Sellack Village Hall, Sellack, Ross on Wye.		
Type of application: Conversion Variation	Date received: 17/07/05	28 Days consultation 10/08/05	Issue Deadline: 16/09/05

Both the advertisement and the current licence have been seen and accepted.

3. Conversion Licence Application

The premises currently holds a Public Entertainment Licence and a Theatre Licence. A conversion licence, has been issued as follows; -

Licensable activity	Hours	
Public Entertainment (Music, Singing & Dancing)	Mon-Sat	1100 to 0100 hours

4. Variation Licence Application

The application for a variation has received no representation from responsible authorities but one from a member of the public. It is therefore brought before the committee for determination.

5. Summary of Application

The licensable activities applied for are: -

Plays*

Films *

Indoor Sporting Events*

Live Music

Recorded Music

Performance of Dance *
Anything of a similar nature to live or recorded music or performance of dance*
Provision for facilities for making of music *
Provision of facilities for dancing *
Late Night refreshment *
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 Plays, Films, Indoor Sporting Events, Live Music, Recorded Music, Performance of Dance, Anything or a Similar description to Live or Recorded Music or Performance of Dance, Provision of Facilities for making music or for, Provision of Facilities for dancing (all to take place indoors) and Late Night Refreshment (*Indoors & Outdoors*): -
- | | |
|--------------------|-------------|
| Monday to Saturday | 1100 – 0100 |
| Sundays | 1100 – 2400 |

9. **Summary of Representations**

West Mercia Police

None

Fire Authority

None

Environmental Health

None

Interested Parties

The Local Authority has received 1 letter of representation in respect of the application, from a local resident.

The concern relates to: -

- Prevention of Public Nuisance

15. **Removal of Conditions**

None has been applied for.

17. **Issues for Clarification**

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

The Applicants – Gordon Roy Francis LEWIS & Rose KIMBLE

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

The Post Code of The Premises

Indoor Sporting Events

Whether it is intended that the premises should be used for any other sporting event other than dog shows.

If it is intended to be used for sporting events whether spectators will be seated or not. If seated the number of seats to be provided.

Performance of Dance

Whether the premises will be used a performance of dance which will take place in the presence of an audience and will be intended to be provided for entertaining that audience.

They have also been asked to provide information as to how they intend to operate the premises, which should include whether there will be any change in their current method of operation.

18. 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.

19. 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.

20. Background Papers

- Public Representation
- Application Form

Background papers are available for inspection in Council Chamber, Town Hall, Hereford 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....

The operating schedule

- 5.46 The operating schedule will form part of the completed application form for a premises licence. 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 also set out the following details:

the relevant licensable activities to be conducted on the premises;
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, if it is likely that the times would be different during different parts of the year);

Schedule 1 of the Licensing Act 2003 defines regulated entertainment as follows: -

The descriptions of entertainment are-

- (a) a performance of a play,
- (b) an exhibition of a film,
- (c) an indoor sporting event,
- (d) a boxing or wrestling entertainment,
- (e) a performance of live music,
- (f) any playing of recorded music,
- (g) a performance of dance,
- (h) entertainment of a similar description to that falling within paragraph (e), (f) or (g),

where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.

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.