

## APPLICATION FOR VARIATION OF PREMISES LICENCE 'COLWALL VILLAGE HALL, MILL LANE, COLWALL, NR LEDBURY, WR13 6EQ' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Hope End

#### 1. Purpose

To consider an application for variation of the premises licence in respect of Colwall Village Hall, Mill Lane, Colwall, Nr Ledbury, WR13 6EQ.

#### 2. Background Information

|                                                     |                                                                       |                                         |                                    |
|-----------------------------------------------------|-----------------------------------------------------------------------|-----------------------------------------|------------------------------------|
| Applicant                                           | <b>Colwall Village Hall Management Committee</b>                      |                                         |                                    |
| Solicitor                                           | <b>N/A</b>                                                            |                                         |                                    |
| Premise                                             | <b>Colwall Village Hall, Mill Lane, Colwall, Nr Ledbury, WR13 6EQ</b> |                                         |                                    |
| Type of application:<br><b>Conversion Variation</b> | Date received:<br><b>15/07/05</b>                                     | 28 Days consultation<br><b>12/08/05</b> | Issue Deadline:<br><b>14/09/05</b> |

Both the advertisement and the current licences 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; -

| <b>Licensable activity</b>                         | <b>Hours</b>      |                                                   |
|----------------------------------------------------|-------------------|---------------------------------------------------|
| Public Entertainment<br>(Music, Singing & Dancing) | Mon-Sat           | 1100 to 0100 hours                                |
|                                                    | Sun               | 1100 to 2230 hours for musical entertainment only |
|                                                    | Sun               | 1900 to 2230                                      |
| Theatre                                            | Unspecified Hours |                                                   |

#### 4. Variation Licence Application

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

**5. Summary of Application**

The licensable activities applied for are: -

Films \*

Indoor Sporting Events\*

Late Night refreshment \*

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 of Films (*Indoors only*), Late Night Refreshment (*Indoors only*) and Indoor Sporting Events: -

Monday to Saturday 1100 – 0100

Sundays 1100 – 2230

7. The following hours have been applied for in respect of the Supply of Alcohol (*On premises only*): -

Monday to Saturday 1100 – 0030

Sunday 1100 – 2200

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

Monday to Saturday 0700 – 0100

Sundays 0800 – 2230

**9. Summary of Representations****West Mercia Police**

Have made representation in respect of the application, which they believe should be dealt with by way of a new application.

The also comment upon the fact that the Designated Premises Supervisor (DPS) is the same as that shown on The Crown Inn, Colwall.

They feel that they are unable to make any representation without full knowledge as how it is intended to operate the premises. They state that there is nothing to stop them operating as a public house.

They therefore request the application for variation in respect of the sale of alcohol be refused.

**Fire Authority**

The fire authority has no objection.

**Environmental Health**

Environmental Health Officers have made representations in relation to the application. This representation addresses the licensing objectives of Public Nuisance and Public Safety.

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, and First Aid.

At the time of this report no negotiation had taken place.

### **Interested Parties**

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

The concerns relate to:

- Prevention of Crime & Disorder
- Public Safety
- Prevention of Public Nuisance
- Protect of Children from Harm

### 10. **Removal of Conditions**

The applicant has applied to remove all conditions attached to their current Public Entertainment Licence and Cinema Licence.

### 11. **Issues for Clarification**

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

#### The Applicant – Colwall Village Hall Committee

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

#### *Films*

Details of the type and certification of the films to be shown on the premises.

Whether it is their intention to use the premises on every day of week and for the hours shown within the application.

#### *Indoor Sporting Events*

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

#### *Late Night Refreshment*

The type of late night refreshment to be provided.

#### *Supply of Alcohol*

Whether or not it is their intention that alcohol will be supplied on every day of the week during the times shown.

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 and whether it is their intention to operate the premises as a public house.

## 12. **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.

## 13. **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.

## 14. **Background Papers**

- Public Representation
- Environmental Health & Trading Standards Comments
- Police Comments
- Application Form

**Background papers are available for inspection in Committee Chamber, The 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);

**Pub games**

- 5.15 Games commonly played in pubs and social and youth clubs like pool, darts, table tennis and billiards may fall within the definition of indoor sports in Schedule 1, but normally they would not be played for the entertainment of spectators but for the private enjoyment of the participants. As such, they would not normally constitute the provision of regulated entertainment, and the facilities provided (even if a pub provides them with a view to profit) do not fall within the limited list of entertainment facilities in that Schedule (see paragraph 5.11 above).

It is only when such games take place in the presence of an audience and are provided to, at least in part, entertain that audience, for example, a darts championship competition, that the activity would become licensable.

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

The descriptions of entertainment are-

- a performance of a play,
- an exhibition of a film,
- an indoor sporting event,
- a boxing or wrestling entertainment,
- a performance of live music,
- any playing of recorded music,
- a performance of dance,
- 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.