

APPLICATION FOR VARIATION OF PREMISES LICENCE IN RESPECT OF 'DORSTONE VILLAGE HALL, DORSTONE, HEREFORD HR3 6AN' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Golden Valley North

1. Purpose

To consider an application for variation of the premises licence in respect of Dorstone Village Hall, Dorstone, Hereford, HR3 6AN.

2. Background Information

Applicant	Dorstone Village Hall Management Committee		
Solicitor	N/A		
Type of application: Variation	Date received: 04/08/05	28 Days consultation 01/09/05	Issue Deadline: 04/10/05

The Public Entertainment Licence has been seen and accepted, as has the advertisement for the premises.

3. Conversion Licence Application

The premises currently hold a Public Entertainment Licence. A conversion licence has been issued as follows; -

Licensable activity	Hours
Live Music	Mon to Sat 11:00 to 01:00 hours
Recorded Music	Sunday 11:00 – 22:30 hours
Performance of Dance	(musical entertainment only)
Provision of entertainment for:- Making Music and dancing	Sunday 19:00 – 2230 hours (for dancing where no admission charge is made)

4. Variation Licence Application

The application for a variation to the premise licence has received representations by responsible authorities and interested parties. It is therefore now brought before the sub-committee for determination.

5. Summary of Application

The licensable activities applied for are: -

Plays*

Films*

Live Music

Recorded Music

Performance of Dance *

Anything of a similar nature to live/recorded music or performance of dance *

Provision for facilities for making music *

Provision for facilities for dance *

Anything of a similar nature to Provision of facilities for making music or dance*

Supply of Alcohol*

(*Not previously licensed)

6. The following hours have been applied for in respect of (*Indoors only*) Plays and Films,
All days of the week 1400 – 2300 hours
7. The following hours have been applied for in respect of (*Indoors only*) Live Music, Recorded Music, Performance of dance, Anything of a similar nature to live/recorded music or performance of dance and the Provision of facilities for dancing,
All days of the week 1100 – 2300 hours
8. The following hours have been applied for in respect of (*Indoors only*) Provision of facilities of making music: -
Monday to Sunday 1000 – 2300 hours
9. The following hours have been applied for in respect of (*Indoors only*) Anything of a similar nature to Provision of facilities for making music or dance: -
Monday to Saturday 1000 –2300 hours
10. The following hours have been applied for in respect of (*On Premises only*) The Supply of Alcohol: -
Monday to Sunday 1100 – 2330 hours
11. In respect of hours premises open to the public are: -
Monday to Sunday 0900 – 2330 hours

12. Seasonal Variations

The following seasonal variation has been applied for in respect of Live Music, Recorded Music and the Supply of Alcohol
New Year's Eve

13. Non Standard hours

The following non-standard times have been applied for in respect of Live Music, Recorded Music and the Supply of Alcohol
To 0100 hours on New Year's Eve

14. Conditions requested to be removed

Increase start of hours when required.

15. 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 same as that shown on Pandy Inn, Dorstone.

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.

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 conditions in relation to the provision of plays and films.

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

The suggested conditions can be found within the background papers.

Fire Authority

The fire Authority have no representation to make but comment upon the capacity limit for the premises.

Interested Parties

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

The concerns primarily relate to:-

- Prevention of Public Nuisance

A copy of this is included within the background papers/

16. Issues for Clarification

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

The Applicant – Dorstone Village Hall Committee

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

Activities Applied For

It is noted that within the further details give in respect some of the activities applied for, that the day of the week is know, yet the application applies for each and every day of the week. Details have been requested of when it is proposed that the actual licensable activity will take place.

Supply of Alcohol

The terminal hour applied for in respect of the supply of alcohol coincides with the time that the premises are due to close. Clarification has been sort as to how this will be managed.

Removal of Conditions (Box P)

Clarification has been sort as to the meaning of the statement 'Increase start of hours when required'

Information has been requested as to how it is intended to operate the premises, this should include whether there will be any change to the current method of operation and whether it is intended to operate the premises as a public house.

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.

18. Background Papers

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

Background papers are available for inspection in the 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);

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.