

APPLICATION FOR VARIATION OF PREMISES LICENCE IN RESPECT OF – ‘BROCKINGTON HALL, BODENHAM, HEREFORD, HR1 3HX’ - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Bodenham

Purpose

1. To consider an application for variation of the premises licence in respect of Brockington Hall, Bodenham, Hereford, HR1 3HX.

Background Information

2.

Applicant	Mr. Russell Warren Stevens, Park Hall, Blakedown, Kidderminster, DY10 3NL		
Solicitor	Mr. Derek Backhouse, T A Matthews, 6 King Street, Hereford, HR4 9BS		
Premises	Brockington Hall, Bodenham, HR1 3HX		
Type of application: Variation	Date received: 02/08/05	28 Days consultation 30/08/05	Issue Deadline: 02/10/05

Conversion Licence Application

3. A conversion licence will be issued as follows; -

Licensable activity	Hours
Sale of Alcohol on and off the premises	<ul style="list-style-type: none"> ▪ Monday to Sat incl 1000 am – 1100 pm (other than Christmas Day, Good Friday and New Years Eve) ▪ Sunday (other than Christmas Day or New Years Eve) 12:00 noon to 1030 pm ▪ Good Friday 1200 noon to 1030 pm ▪ Christmas Day 1200 noon to 300 pm and 700 pm to 1030 pm ▪ New Years Eve (Except Sunday) 1100 am to 1100 pm ▪ New Years Eve (Sunday) 1200 noon to 1030 pm ▪ New Years Eve from the end of the permitted hours as stated above to the start of the permitted hours on the following day ▪ The above restriction does not prohibit the sale or supply of alcohol to persons residing on the

	<p>premises or their private friends being entertained there outside the hours mentioned above.</p> <ul style="list-style-type: none"> ▪ Alcoholic beverages shall only be served to persons attending pre-arranged functions.
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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. (mentioned above)

The premises does not hold a current public entertainment licence.

- To retain all embedded permissions and restrictions attached to a Justices On Licence.

Variation Licence Application

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

Summary of Application

5. The licensable activities applied for are: -

Live Music (indoors)

Recorded Music (indoors)

Provision of entertainment facilities for making music (indoors)

Provision of entertainment facilities for dancing (indoors)

Supply of Alcohol (on and off premises)

(Activities in bold are those not previously licensed)

6. The following hours have been applied for in respect of Live Music (*Indoors only*):-

Mon – Sat 2000 – 2300

Sun 2000 – 2230

7. The following hours have been applied for in respect of Recorded Music (*Indoors only*):-

Mon – Sat 2000 – 2300

Sun 2000 – 2230

8. The following hours have been applied for in respect of provision of facilities for making music and provision of facilities for dancing (*indoors only*):-

Mon – Sat	2000 – 2300
Sun	2000 – 2230

9. The following hours have been applied for in respect of supply of alcohol:-

- Monday to Sat incl 1000 am – 2300
- Sunday 12:00 noon to 2230 pm
- Good Friday 1200 noon to 2230 pm
- Christmas Day 1200 noon to 1500 pm and 1900 pm to 2230 pm
- New Years Eve (Except Sunday) 1100 am to 2300 pm
- New Years Eve (Sunday) 1200 noon to 2230 pm
- New Years Eve from the end of the permitted hours as stated above to the start or the permitted hours on the following day
- The above restriction does not prohibit the sale or supply of alcohol to persons residing on the premises or their private friends being entertained there outside the hours mentioned above.
- Alcoholic beverages shall only be served to persons attending pre-arranged functions.

10. The hours that the premises will be open to members of the public:-

Mon – Sat	1000 – 2330
Sun	1200 – 1500 & 1900 – 2300

11. **Non Standard hours**

None

13. **Summary of Representations**

West Mercia Police

Have no representations.

Fire Authority

The fire authority have made representation in respect of the application and request further information from the client regarding fire safety details in the marquee.

Environmental Health

Environmental Health Officers have made representations in relation to the application. This representation addresses the licensing objectives of Public Safety, Prevention of Public Nuisance, and Protection of Children From Harm.

In respect of Public Safety they seek conditions in relation to overcrowding, Ventilation and heating, first aid, electrical installation, fire safety, gas Installations and open containers.

With regards to the prevention of public nuisance they seek conditions in relation to the prevention of noise and vibration.

With regards to the protection of children from harm they recommend some conditions in respect of proof of age cards, unlawful supply of alcohol and drugs, and films or videos.

14. **Issues for Clarification**

This Authority has requested clarification from the applicant, Russell Warren Stevens.

Mr Stevens is the Premises Supervisor but his home address is in Kidderminster – What arrangements is he making for the sale of alcohol if away from the premises?

There is also a concern that the client indicates weddings are to take place and yet all of the entertainment is stated for the times 2000 – 2300. We need clarification on how this is the case.

In part B of the application form in the box dealing with proposed variation you do not specify that the use of the marquee is part of the variation, yet in box I – provision of facilities for making music – there is a mention of the marquee. We sought confirmation on this.

If the marquee is not permanently there we need to know the dates when it will be in use.

In boxes E (live music), F (recorded music), and J (provision of facilities for dancing) all state the activities will take place inside. Does this include the marquee?

The risk assessment does not appear to address the marquee area.

What provisions are in place to ensure the licensing objectives are fulfilled for the marquee?

The fire authority have asked for clarification on the following points:

Dimension of marquee, floor area in M², Dimensions and direction of openings of exits and associated door furniture to marquee, Details required of a means of raising the alarm in the event of fire, Details of emergency lighting, Details of signage, Details of firefighting equipment, Proposed maximum numbers of persons within structure and the minimum number of stewards.

15. **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.

16. **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.

17. **Background Papers**

- Public Representation forms
- Environmental Health & Trading Standards Comments
- Application Form
- Any other associated papers

Background papers are available for inspection in the Town Hall, St Owen Street, 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...

5.74 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 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.

Incidental music

5.18 The incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated entertainment activities under the 2003 Act in certain circumstances. This is where they are incidental to another activity which is not itself entertainment or the provision of entertainment facilities.

So, for example, a juke box played in a public house at moderate levels would normally be regarded as incidental to the other activities there, but one played at high volume would not benefit from this exemption. Stand-up comedy is not regulated entertainment and musical accompaniment incidental to the main performance would not make it a licensable activity.

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.