

## APPLICATION FOR VARIATION OF PREMISES LICENCE IN RESPECT OF – ‘TITLEY VILLAGE HALL, STAGG MEADOW, TITLEY, KINGTON, HR5 3RL’ - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Pembridge with Lyonshall

### Purpose

1. To consider an application for variation of the premises licence in respect of Titley Village Hall, Stagg Meadow, Titley, Kington, HR5 3RL.

### Background Information

2.

Applicant	Titley Village Hall Committee, Pinecroft, Titley, Kington, HR5 3RL		
Solicitor	N/A		
Premises	Titley Village Hall, Stage Meadow, Titley, Kington, HR5 3RL		
Type of application: <b>Variation</b>	Date received: <b>04/08/05</b>	28 Days consultation <b>01/09/05</b>	Issue Deadline: <b>04/10/05</b>

### Conversion Licence Application

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

Licensable activity	Hours
Live Music Performances of Dance	Mon – Sat 1100 am – 0100 am

With the following condition attached:-

- To retain all embedded permissions and restrictions attached to a Public Entertainment Licence.

### Variation Licence Application

4. The application for a variation has received representations by responsible authorities and the applicants have not responded to our frequent requests for written confirmation, therefore the application is now brought before the sub-committee for determination.

## Summary of Application

5. The licensable activities applied for are: -

Live Music (indoors)

Performances of Dance (indoors)

### **Supply of Alcohol (both on and off premises)**

Hours premises are open to public

### **(Activities in bold are those not previously licensed)**

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

Mon – Thurs	0800 am – 0030 am
Fri – Sat	0800 am – 0200 am
Sun	0800 am – 0030 pm

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

Mon – Thurs	0800 am – 0030 am
Fri – Sat	0800 am – 0200 am
Sun	0800 am – 0030 pm

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

Mon – Thurs	1200 am – 2400 midnight
Fri – Sat	1200 am – 0130 am
Sun	1200 am – 2400 midnight

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

Mon – Thurs	0800 am – 0030 am
Fri – Sat	0800 am – 0200 am
Sun	0800 pm – 0030 pm

## 11. **Non Standard hours**

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

### **In respect of the supply of alcohol:-**

Drinking up time half an hour after the finish time for the sale of alcohol

### **In respect of 'Hours the premises are open to the public':-**

Village Hall hired out for private hire at whatever time the hirer wishes

### 13. Summary of Representations

#### **West Mercia Police**

Have made representation in respect of the application and request a number of conditions to be applied to the licence to prevent crime and disorder.

In order to promote the licensing objectives and in particular, with a view to preventing crime and disorder, they would seek the licensing authority to impose the following conditions:-

- That all functions where the licensable activity of the retail of alcohol takes place will be pre booked functions and that a record of that booking will be kept and made available for inspection by the licensing authority and police.
- That the Chair of the village hall management committee will work closely with the Designated Premise Supervisor to ensure that the sale of alcohol at the premises is carried out in such a way that the overall character of the hall remains that of a community premises and that all 4 licensing objectives are promoted.
- Hirers of the hall will be required to make suitable arrangements for the sale of alcohol with the DPS if the sale is undertaken in accordance with the premises licence as opposed to a temporary event notice.

These are the minimum conditions the Chief Constable would require to see on any premise licence issued to a "Village Hall" authorised for the sale of alcohol.

#### **Fire Authority**

The fire authority have made no comments.

#### **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 open containers And overcrowding.

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 and unlawful supply of alcohol and drugs.

**Interested Parties**

The Local Authority has not received any letters of representation in respect of the application.

**14. Issues for Clarification**

None.

**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.