

**APPLICATION FOR VARIATION OF CLUB PREMISES
CERTIFICATE IN RESPECT OF 'ROSS-ON-WYE
ROWING CLUB, BROOKSMOUTH, THE ROPEWALK,
ROSS-ON-WYE, HR9 7BU' - LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Ross-on-Wye West/East

1. Purpose

To consider an application for variation of the club premises certificate in respect of Ross-on-Wye Rowing Club, The Ropewalk, Ross-on-Wye, HR9 7BU.

2. Background Information

Applicant	Ross-On- Wye Rowing Club		
Solicitor	N/A		
Type of application: Variation	Date received: 08/08/05	28 Days consultation 05/09/05	Issue Deadline: 07/09/05

The Justices Licence has been seen and accepted. The advertisement for the premises has been seen.

3. Conversion Licence Application

The premises currently hold a Club Registration Certificate. A conversion licence has been issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon-Sat 1000 to 2300 hours
	Sun 1200 to 2230 hours
	Good Friday 1200 to 2230 hours
	Christmas Day 1200 to 1500 hours and 1900 to 2230 hours.
	New Years Eve 1000 hours to 2300 hours New Years Day

With the following conditions attached: -

- 30 minute drinking up period at the end of the sale of alcohol

4. Variation Licence Application

The application for a variation has received representations by responsible authorities and a local resident. It is therefore now brought before committee for determination.

5. Summary of Application

The licensable activities applied for are: -

Indoor Sporting Events*

Live Music*

Recorded Music*

Supply of Alcohol

(*Not previously licensed)

6. The following hours have been requested in respect of Indoor Sport Events: -
Monday to Sunday 0900 – 1800 hours

7. The following hours have been requested in respect of Live Music and Recorded Music (*Both Indoors and Outdoors*): -
Sunday to Thursday 1000 – 2300 hours
Friday & Saturday 1000 – 0000 hours

8. The following hours have been requested in respect of Supply of Alcohol (*On Premises*): -
Monday to Sunday 0900 – 0100 hours

9. Seasonal Variations

No application for seasonal variations has been made.

10. Non Standard Hours

The application applies for 'non-standard' hours in respect of Live and Recorded Music as follows: -

Occasional Events only – Estimated one early July, one late August. Timings 9am to 1am.

August Bank Holiday Weekend Sat/Sun 1000 – 0200. second Friday in September, second Friday in December and New Years Eve.

In respect of the supply of alcohol – Occasional Events 24 hour (Such as Fund Raising Events), to allow us save use of TENS for Non-Member Events estimated 6 events/year.

1x Mid Sept, 1x Mid Dec, 1xNew Years Eve, 1xMarch, 1xMay, 1xJuly.

11. Removal of Conditions

The applicant has not applied to remove any conditions.

12. Summary of Representations

A copy of any suggested conditions and representations can be found within the background papers.

West Mercia Police

West Mercia Police have made representation in respect of the application and comment upon the fact that the club have already confirmed with them that they do not intend to operate to 0100 hours each and every day of the week.

They also seek further information in respect of the Non-Standard Timings applied for.

Environmental Health

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

In respect of public nuisance they ask for two conditions in relation to prevention of noise and vibration.

In respect of public safety they seek some general conditions, as well as conditions to address Overcrowding, Ventilation & Heating, First Aid, Lighting, Gas and Electrical Safety.

In respect of the protection of children from harm they request the inclusion of two conditions.

Fire Authority

Have no representation to make in respect of the application.

11 Issues for Clarification

This Authority has requested clarification on particular points from the parties shown: -

Applicant – Ross On Wye Rowing Club.

Has been requested to provide clarification in respect of matters relating to the application as follows: -

Indoor Sporting Events

It is noted from the application that the hours for the above activity are 0900 to 1800 hours each day. Yet the application states that these events will only take place on two occasions per year.

Details have been requested as to when these two events are likely to take place.

Confirmation has also been requested that no other kind of indoor sporting event will take place.

Live Music & Recorded Music

Again it is noted from the application that the hours for the above activity are 1000 to 2300 hours each day. Yet the application states that these events will only involve one in early July & one in Late August. With an event on Saturday & Sunday of August Bank Holiday Weekend from 1000 to 0200 and

events on the second Friday in September & the second Friday in December and New Years Eve until 0200 hours.

Confirmation has been asked for that these are the only times that this part of the licence is to apply.

If this is not the case then details of the actual days and hours when this part of the licence will be used.

No details have been provided in respect of the use of music to be provided outside. This has not been shown within the premises description, or on the plan of the premises. Full details of this have been requested, including a plan of the outside area.

Supply of Alcohol

The police have made comment that following a conversation with the applicant, it is clear that there is no intention to supply alcohol on every day of the week 0900 to 0100.

Therefore details of the times that it is actually proposed to supply alcohol have been requested.

Clarification is sort in respect of the non-standard timings applied for under this section. It is unclear whether it is intended to apply for TENS for the 24-hour events. If it is intend to be part of the licence, then details of the day(s) that this is to apply have been asked for.

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**

- Letter of Representation
- Police Comments
- Environmental Health & Trading Standards Comments

- Application Form
- Location Map

Background papers are available for inspection in the Shirehall, 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.