

APPLICATION FOR NEW PREMISES LICENCE 'THE LIQUID LOUNGE, 48-50 ST OWENS STREET, HEREFORD, HR2 0AA' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Central

1. Purpose

To consider an application for a new premises licence in respect of 'The Liquid Lounge, 48-50 St Owens Street, Hereford, HR2 0AA.'

2. Background Information

Applicant	Dalespire Ltd	
Solicitor	N/A	
Type of application: New	Date received: 21/10/05	28 Days consultation 18/11/05

The advertisement for the premises has not been seen at this time. The notice on the premises has been inspected and it is noted that this states the hours are to be extended on Christmas Eve and New Years Eve by 1 hour.

3. New Licence Application

The application for a new licence has received representations from responsible authorities and interested parties. It therefore is now brought before the sub-committee to determine the application.

4. Summary of Application

The licensable activities applied for are: -

Live Music*

Recorded Music*

Performance of Dance*

Provision of facilities for dancing*

Supply of alcohol

(* Not previously licensed)

5. The following hours have been applied for (*Indoors Only*) in respect of all the licensable activities, including the supply of alcohol (*on premise*): -

Monday to Wednesday 1200 – 0000 hours

Thursday 1200 – 0100 hours

Friday & Saturday 1100 – 0100 hours

Sunday 1100 – 0030 hours

The premises to close 30 minutes after these times.

6. Seasonal Variations

The application requests seasonal variations on Christmas Eve of an additional 2 hours and on Bank Holiday Weekend and other Bank Holidays of 1 hour.

7. Summary of Representations

Copies of any representation and suggested conditions can be found within the background papers.

West Mercia Police

Have made representation in respect of the application. They seek assurance that the premises will be run as a club and raise a number of issues for clarification. They also seek nine further conditions.

Environmental Health

Environmental Health Officers have made representation in respect of this and object to the grant of the licence. Therefore there are no requested conditions.

Fire Authority

The Fire Authority has no representation to make.

Interested Parties

The Local Authority has received 1 petition containing 56 signatures. To assist; the petition is marked with the letter 'R' to the left of name in respect of those people who made also made a written representation, a total of 39 people did this.

The concerns relate to:

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

8. Issues for Clarification

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

Applicant – Dalespire Ltd

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

The application requests Seasonal Variations and the term 'Bank Holiday Weekend' is used. Clarification is sought that this is to include only the Saturday and Sunday

Licensing Objectives

The application states within the licensing objective of 'General' it is stated that 'The Liquid Lounge is a member's only club employing a strict code of conduct upon its members'. Clarification has been sought in respect of the control measures that are in place to ensure that general members of the public are not admitted to the premises.

It is noted that under the licensing objective of 'The prevention of crime and disorder' the words 'Membership Application Procedure' is shown. Full details have been requested in respect of this together with a copy of the rules of the club.

9. 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 submitted in respect of the application.

10. 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.

11. Other matters for consideration

The application states that on Christmas Eve and New Years Eve a 2 hour period is applied for in addition to the normal hours. The notice at the premises stated that this period was for 1 hour only not 2.

12. Background Papers

- Public Representation
- Application Form
- Location Plan

Background papers are available for inspection in the Council Chamber, Brockington, Hafod Road, 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....

Licensing Act 2003 SCHEDULE 8 – Paragraph 11***Opening hours***

11 (1) This paragraph applies where-

- (a) within such period (of not less than six months) as may be specified, the holder of a justices' licence for any premises applies, in accordance with Part 3 of this Act, for the grant of a premises licence in respect of those premises, and
- (b) the licence, if granted in the form applied for, would authorise the sale by retail of alcohol.

(2) In determining the application for the premises licence under section 18, the relevant licensing authority may not, by virtue of subsection (3)(b) of that section, grant the licence subject to conditions which prevent the sale of alcohol on the premises during the permitted hours.

(3) But sub-paragraph (2) does not apply where-

- (a) there has been a material change in circumstances since the relevant time, and
- (b) the relevant representations made in respect of the application include representations made by the chief officer of police for the police area (or any police area) in which the premises are situated advocating that, for the purposes of promoting the crime prevention objective, the premises licence ought to authorise the sale of alcohol during more restricted hours than the permitted hours.

(4) In this paragraph-

"permitted hours" means the permitted hours during which the holder of the justices' licence is permitted to sell alcohol on the premises under Part 3 of the 1964 Act;

"relevant representations" has the meaning given in section 18(6); and

"relevant time" means the time when the justices' licence was granted or, if it has been renewed, the last time it was renewed.

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.