

APPLICATION FOR NEW PREMISES LICENCE 'BURTON COURT, EARDISLAND, LEOMINSTER, HR6 9DN.' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Golden Cross with Weobley

1. Purpose

To consider an application for a new premises licence in respect of Burton Court, Eardisland, Leominster, HR6 9DN.

2. Background Information

Applicant	Burton Court Functions Ltd		
Solicitor	N/A		
Type of application: New	Date received: 18/10/05	28 Days consultation 15/11/05	Issue Deadline: 17/12/05

3. New Licence Application

The application for a new licence has received representations by responsible authorities and an interested party. It is therefore now brought before the Sub-Committee for determination

4. Summary of Application

The licensable activities applied for are: -

Plays *

Live Music *

Recorded Music *

Late Night Refreshment

Supply of Alcohol

(* Not previously licensed)

5. The following hours have been applied for in respect of Plays: -

Monday to Saturday 0900 – 0200

Sunday 0900 – 0000

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

Monday to Saturday 1100 – 0100

Sunday 1100 – 0000

7. The following hours have been applied for in respect of Late Night Refreshment (*Indoors only*): -
Monday to Saturday 2300 – 0200
Sunday 2300 – 0000
8. The following hours have been applied for in respect of Supply of Alcohol (*Both on & off premises*): -
Monday to Saturday 1200 – 0130
Sunday 1200 – 0000
9. The hours the premises will be open to the public are: -
Monday to Saturday 0900 – 0200
Sunday 1100 – 1230
10. **Non Standard hours**
There is no application for 'non-standard' hours.
11. **Summary of Representations**
Copies of the representations and suggested conditions can be found within the background papers.

West Mercia Police

Have no representation to make in relation to the application.

Environmental Health

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

The applicant has agreed to the suggested conditions.

Fire Authority.

The fire authority has made no comment.

Interested Parties.

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

The concerns relate to:

- Prevention of Crime & Disorder

12. **Issues for Clarification**

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

Applicant – Edward Simpson

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

Plays, Recorded Music, Live Music, Provision of Late Night Refreshment and Supply of Alcohol

It has been noted from the application that within the above activities applied for no details has been provided. In order for the Committee to decide what they may be licensing, the applicant has been asked to provide full details to the Committee.

Plays and Recorded Music

The application fails to indicate whether these activities will take place indoors or outdoors. Clarification in respect of this matter has been sought.

Plays and Hours Premises are open to the Public

The application states that on a Sunday the opening hours of the premises will be from 1100 hours, yet the hours applied for in respect of plays states 0900 hours. Clarification has been sought as the reason for this.

Hours Premises are open to the Public

It is noted that a terminal hour of 0200 hours is applied for which often coincides with the terminal hour for the licensable activities. Clarification has therefore been sought as to how the applicant intends to close the premises at the same time as the conclusion of the activities.

Hours Premises are open to the Public

Within the seasonal variations, under this part of the application it is stated 'Only organised parties in advance, no casual public entry to the venue'. Confirmation has been requested that the premises will not be open to the members of the public other than for pre-booked functions.

13. **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.

14. **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
- Environmental Health & Trading Standards Comments
- Application Form
- Location Map

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