

## APPLICATION FOR NEW PREMISES LICENCE 'TC'S BAR, 1 BROAD STREET, BROMYARD, HR7 4BS.' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Bromyard & Winslow

#### 1. Purpose

To consider an application for a new premises licence in respect of TC's Bar, 1 Broad Street, Bromyard, HR7 4BS.

#### 2. Background Information

Applicant	<b>Edward Neville Richard Symonds</b>	
Solicitor	<b>Gabbs, Hereford</b>	
Type of application: <b>New</b>	Date received: <b>01/11/05</b>	28 Days consultation <b>29/11/05</b>

#### 3. New Licence Application

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

#### 4. Summary of Application

The licensable activities applied for are: -

Films \*

Live Music \*

Performance of Dances \*

Recorded Music \*

Provision of facilities for dancing \*

Late Night Refreshment \*

Supply of Alcohol \*

(\* Not previously licensed)

#### 5. The following hours have been applied for in respect of all the licensable activities (*indoors only*) and the supply of alcohol (*On & Off Premises*): -

Monday to Thursday      1000 – 0000

Friday & Saturday      1000 – 0200

Sunday                      1200 – 0030

The premises to close at the same times as shown above.

**6. Non Standard hours**

The application requests the following as 'non-standard' hours in respect of all the licensable activities: -

Sundays before a Bank Holiday Monday 1200 – 0300.

Christmas Eve – Finish at 0200 Christmas Day..

Maunday Thursday 1000 – 0300

New Years Eve from 1100 to 2300 New Years Day.

**7. Summary of Representations**

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

**West Mercia Police**

Have made representation in relation to the application. They request a total twelve conditions to promote the licensing objective of the prevention of crime and disorder.

**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.

In respect of Public Safety and Public Nuisance they seek a four conditions in respect of each and a further condition in respect of the Protection of Children from Harm.

**Fire Authority.**

The fire authority has made comment in respect of the application a request a fire alarm and emergency lighting to British Standard.

**Interested Parties.**

The Local Authority has received eight (8) letters of representation in respect of the application, from a local resident. Two (2) from local businesses and one (1) from a landlord.

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 – Edward Neville Richard Symonds**

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

Designated Premises Supervisor

The applicant has been asked to confirm that he is already the designated premises supervisor in respect of Saxtys Café Bar, 33 Widemarsh Street, Hereford.

Hours Premises are open to the Public

It is noted that the terminal hour for all the licensable activities is the same as the closing time for the premises. Clarification has therefore been sort as to how the applicant intends to close the premises at the same time as the conclusion of the activities.

Films

Clarification is sort as to the frequency of the showing of films. It is noted that the application states 'occasional'. Therefore the applicant has been asked to explain why this cannot be done by way of temporary event notice.

Performance of Dance

Whether it is intended that the premises shall be used for the performance of dance, which will take place in the presence of an audience for their entertainment.

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.

**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 specified within the DCMS Guidance.

**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. **Background Papers**

- Public Representation
- Environmental Health & Trading Standards Comments
- Fire Officers Comments
- Police Representation
- Application Form

**Background papers are available for inspection in the Council Chamber, Town Hall, St. Owen's 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....
- 5.75 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....

**Designated premises supervisors**

- 4.18.1 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment. This is why a personal licence is required by individuals who may be engaged in making and authorising such sales and supplies. Not every person retailing alcohol at premises licensed for that purpose needs to hold a personal licence, but every sale or supply of alcohol must be at least authorised by such a licence holder. Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. For example, there may be one owner or senior manager possessing a personal licence and several junior managers similarly qualified. **The main purpose of the “designated premises supervisor” as defined in the 2003 Act is to ensure that there is always one specified individual, among these personal licence holders, who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder.**
- 7.28 **In the context of crime and disorder and public safety, the preservation of order on premises where alcohol is supplied for consumption and to which very large numbers of people are admitted may give rise to genuine concerns about the competency of the management team charged with the maintenance of order on those premises. The designated premises supervisor is the key person who will usually be charged with day to day management of the premises by the premises licence holder and therefore with preventing disorder there. No conditions relating to the management competency of designated premises supervisors should normally be attached to premises licences. Such a**

condition could only be justified as necessary in rare circumstances where it could be demonstrated that in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained and licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act ensure, for example, that the prevention of disorder is in sharp focus for all such managers, licence holders and clubs.

### **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.