

## APPLICATION FOR NEW PREMISES LICENCE 'OLDE FERRIE INN, SYMONDS YAT, ROSS ON WYE, HR9 6BL.' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Ross on Wye West

#### 1. Purpose

To consider an application for a new premises licence in respect of Olde Ferrie Inn, Symonds Yat, Ross on Wye, HR9 6BL.

#### 2. Background Information

Applicant	<b>Raymond Lee ANTHONY</b>	
Solicitor	<b>Simon Bishop &amp; Partners, Droitwich</b>	
Type of application: <b>New</b>	Date received: <b>28/11/05</b>	28 Days consultation <b>26/12/05</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 committee for determination.

#### 4. Summary of Application

The licensable activities applied for are: -

Indoor Sporting Events \*

Live Music \*

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 Indoor Sporting Events, Provision of facilities for dancing (*Indoors*) and the supply of alcohol (*Both On & Off Premises*): -

All days of the week      1000 – 0100

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

All days of the week      1400 – 0000

7. The following hours have been applied for in respect of Late Night Refreshment (*Indoors*): -  
All days of the week 2300 – 0100

8. The following hours have been applied for in respect of Recorded Music (*Indoors*) and for the Premises to be open to members of the public: -  
All days of the week 1000 - 0130

9. **Non Standard hours**

The application requests 'non-standard' hours as follows: -

Live & Recorded Music:

Christmas Eve & New Years Eve – 1400 to 0200

Late Night Refreshment:

Christmas Eve & New Years Eve – 2300 to 0200

Provision of facilities for dancing & Supply of Alcohol

Christmas Eve & New Years Eve - 1000 to 0200

The premises to close at 0230 on these days.

10. **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 and Public Nuisance.

In respect of Public Nuisance they recommend an amendment to the operating hours in respect of the dancing, music and late night refreshment. They also request a further four conditions to address this objective.

In addition to this they seek nine additional conditions to address the licensing objective of public safety.

**Fire Authority.**

The fire authority has not commented on the application.

**Interested Parties.**

The Local Authority has received seventeen (18) letters of representation in respect of the application, from a local resident and one (1) from the Secretary of the Local Tourisms Network.

The concerns relate to:

- Prevention of Crime & Disorder
- Public Safety
- Prevention of Public Nuisance

#### 11. **Issues for Clarification**

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

Applicant – Raymond Lee Anthony

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

##### Indoor Sporting Events, Live Music and Recorded Music

The application contains no details in respect of the above activities. The applicant has been asked to describe in detail the activities to be licensed under these sections.

##### Hours Premises are open to the Public

It is noted that the terminal hour for recorded music is the same as the closing time for the premises. Clarification has therefore been sort as to how the applicant intends to manage the closer of the premises when recorded music is still being played.

##### Non Standard Timings

The application requests the Provision of the facilities for dancing to commence at 1000 hours on Christmas Eve and New Years Eve, yet the application only requests Live or Recorded Music from 1400 hours on these days. Clarification has therefore been sort as to the reason why dancing is to be licensed for four (4) hours before the start of any music.

#### 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**

- Public Representation
- Environmental Health & Trading Standards Comments
- Application Form

**Background papers are available for inspection in the Council Chamber, Brockington, 35 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 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.