

## APPLICATION FOR A NEW PREMISES LICENCE 'SHOCK, S& A PRODUCE LTD, BROOK FARM, MARDEN, HR1 3ET '- LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Sutton Walls

### Purpose

- To consider an application for a new premises licence to provide an entertainment area and bar for workers living on, or near to the site.

### Background Information

Applicant	<b>Graham John Neal</b>	
Solicitor	<b>N/A</b>	
Type of application:	Date received:	28 Days consultation
<b>New</b>	<b>08/05/06</b>	<b>05/06/06</b>

- The advertisement for the premises was received on 16th May, 2006 it states the proposed licensable activities as:- a bar, films, plays, music and dance between 11:00 – 01:00. There is no mention of late night refreshment on the advertisement.

### New Licence Application

- The application for a licence has received representations from interested parties. It is therefore now brought before the sub-committee for determination.

### Summary of Application

- The licensable activities applied for are: -  
Plays  
Films  
Live Music  
Recorded Music  
Performance of Dance  
Provision of facilities for making music  
Provision of facilities for dancing  
Late Night Refreshment  
Supply of Alcohol
- The following hours have been applied for in respect of Plays, (Indoors only): -  
Monday to Sunday                      17.00 - 00.00

6. The following hours have been applied for in respect of Plays, Recorded Music, Performance of Dance, Dancing, Provision of facilities for making Music, Late Night Refreshment (Indoors only):  
Monday to Sunday 13.00 - 00.00
7. The following hours have been applied for in respect of Live Music (indoors Only) : -  
Monday to Sunday 13.00- 01.00
8. The following hours have been applied for in respect of the supply of alcohol (on and off the premises ) : -  
Monday to Sunday 11.00- 00.30
9. The following hours have been applied for in respect of the hours that the premises are open to the public  
Monday to Sunday 11.00 – 01.00

### **Non Standard hours**

10. There is no application for '**non-standard**' hours.

### **Summary of Representations**

11. **West Mercia Police**  
Has no comment to make on Crime and Disorder a copy is attached to the background papers.
12. **Environmental Health**  
Environmental Health Officers has made representations in relation to the application (attached). This representation addresses the licensing objective Public Nuisance and Public Safety.
13. **Issues for clarification**  
The Licensee has been requested to provide clarification in respect of matters relating to the application as follows:-
  - To identify on the plan where the licensable activities are to take place.
  - More detail on provision of Late Night Refreshment who and how it will be provided.
14. **Interested Parties**  
The Local Authority has received 19 letters of representation (1 unsigned) in respect of the application, from interested parties a copy is attached to the background papers.  
  
The concerns relate to:
  - Prevention of crime and disorder
  - Public Safety
  - Prevention of Public Nuisance
  - Protection of Children from Harm

A summary of the suggested conditions made by the public representees can be found as an appendix to this report. Full copies of the public representations can be found in the background papers.

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## Herefordshire Council Licensing Policy

15. 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.

### Options: -

16. 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.

### Background papers

- Public presentation
- Police Comments
- Environmental Health & Trading Standards Comments
- Application Form

**Background papers are available for inspection in the Council Chamber, Brockington, Hafod Road, Hereford HR1 1 ES**

**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....

**Schedule 2 of the Licensing Act 2003 states: -**

The provision of late night refreshment

- 1 (1) For the purposes of this Act, a person "provides late night refreshment" if-
- (a) at any time between the hours of 11.00 p.m. and 5.00 a.m., he supplies hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises, or
  - (b) at any time between those hours when members of the public, or a section of the public, are admitted to any premises, he supplies, or holds himself out as willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises

**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.