

APPLICATION FOR NEW PREMISES LICENCE 'HOMME HOUSE, MUCH MARCLE, LEDBURY, HR8 2NJ.' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Old Gore

Purpose

- To consider an application for a new premises licence in respect Homme House, Much Marcle, Ledbury, HR8 2NJ.

Background Information

Applicant	Jocelyn FINNIGAN	
Solicitor	N/A	
Type of application:	Date received:	28 Days consultation
New	12/06/06	10/07/06

- The advertisement for the premises has been seen. However it does not state that a marquee may be provided on site.

New Licence Application

- The application for a new licence has received representations from interested parties and responsible authorities. It is therefore now brought before committee to determine the application.
- The application was initial received on 8th May, 2006 and was accepted. However, it was subsequently found that the notice displayed at the premises did not conform to the regulations and the applicant decided to re-start the 28 day period to ensure compliance with the regulations.

Summary of Application

- The licensable activities applied for are: -
Live Music
Recorded Music
Provision of facilities for dancing
Supply of Alcohol
All of these will be indoors.
- The following hours have been applied for in respect Live Music, Recorded Music and Provision of facilities for Dancing: -
Monday to Sunday 1800 - 0000
- The following hours have been applied for in respect of the Supply of Alcohol on premises only: -
Monday to Sunday 1200 – 0000

8. The premises are to be open to the public: -
Monday 0800 – Sunday 0800 – 0100

Non Standard hours

9. There is no application for ‘**non-standard**’ hours in respect of Live and recorded music and performance of dance.
10. The application states: -
Start varies depending on timing/length of the wedding breakfast, but usually between 1900 and 2000.

Summary of Representations

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

West Mercia Police

12. Have made representation and request one condition to promote the licensing objective of the prevention of crime and disorder.

Environmental Health

13. The Environmental Health Officer has made representations in relation to the application. This representation recommends a curtailing of hours in respect of the hours open to the public and the supply of alcohol. It is also requested that conditions be attached to address the licensing objectives of Public Safety, Prevention of Public Nuisance and the Protection of Children from Harm.

In respect of Public Safety they request a number of general conditions as well as conditions in respect of Access, Lighting, Electrical Installations, and Fire Safety.

In respect of Public Nuisance they request conditions concerning Noise and Vibration, Fireworks and Accumulations/Odours.

They request a further one conditions in respect of the protection of children.

Fire Authority.

14. The fire authority has made representation in respect of the application. They request three (3) conditions relating to the fire alarm system, escape routes and emergency lighting with the proviso that these items are addressed by 1 October 2006.

Interested Parties.

15. The Local Authority received twelve (12) letters of representation in respect of the application. These representations address the four licensing objectives. but this was received outside the 28-day consultation period and therefore was rejected.

A further representation was received during the first consultation period. This person was not notified of the re-start of the application therefore the representation should stand.

Issues for Clarification

This Authority has requested clarification on following points: -

16. Non Standard Timings The applicant has been requested to provide the earliest start time in respect of the licensable activities of recorded music, live music and provision of facilities for dancing.
17. Licensable Activities The application within the further details states 'Normally Saturdays but could be other days'. The applicant has been asked to state why the other days cannot be dealt with by way of temporary event notice.

Herefordshire Council Licensing Policy

18. 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.

Options

19. 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

- Police Comments
- Environmental Health & Trading Standards Comments
- Fire Authority Comments
- Application Form
- Public Representations

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.