

## APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE DUCKING SCHOOL, 11 SOUTH STREET, LEOMINSTER, HR6 8AJ.' - LICENSING ACT 2003

**Report By: Head Of Environmental Health And Trading Standards**

### Wards Affected:

Leominster North/South

### Purpose

- To consider an application for a variation of premises licence in respect of The Ducking Stool, 11 South Street, Leominster. HR6 8AJ.

### Background Information

Applicant	Lorna KENDALL	
Solicitor	N/A	
Type of application: <b>New</b>	Date received: <b>8/06/06</b>	28 Days consultation <b>6/07/06</b>

- The advertisement for the premises has been seen although all activities applied for do not appear within the advertisement.

### Variation Licence Application

- The application for a variation of premises licence has received representations from responsible authorities and interested parties. It is therefore now brought before committee to determine the application.

### Current Licence

- The current licence permits the sale of alcohol both on and off the premises: -  
*On weekdays, other than Christmas Day, Good Friday or New Years Eve, 10 a.m. to 11 p.m.*  
*On Sundays, other than Christmas Day or New Years Eve, 12 noon to 10.30 p.m.*  
*On Good Friday, 12 noon to 10.30 p.m.*  
*On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.*  
*On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).*

### Summary of Application

- The licensable activities applied for are: -  
Live Music  
Recorded Music  
Supply of Alcohol [Previously Licensed]
- The following hours have been applied for in respect Live Music (Indoors): -  
Wednesday 2000 – 0000

Friday to Sunday 2000 – 0000

7. The following hours have been applied for in respect of Recorded Music (Not stated whether indoors or outdoors or both) and the Supply of Alcohol on premises: -

Monday to Saturday 1100 – 0100  
Sunday 1100 – 0030

8. The premises are to be open to the public: -

Monday to Saturday 1100 – 0120  
Sunday 1100 – 0030

### **Non Standard hours**

9. There is an application for 'non-standard' hours. The application states 'Would like extended hours till 02:00 New Years Eve' in respect of Live Music and Hours open to the public.

### **Seasonal Variations**

10. In respect of recorded music the application states 'Would like alternative days in Summer Months'.

### **Adult Entertainment**

11. The application requests adult entertainment and states 'Ladies nights, Men's Entertainment Nights'.

### **Summary of Representations**

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

13. **West Mercia Police**

Have made representation and request eight conditions to prevent crime and disorder.

14. **Environmental Health**

The Environmental Health Officer has made representations in relation to the application. This representation addresses the licensing objectives of Public Safety and Public Nuisance.

In relation to public nuisance they request a terminal hour for: -

- all the licensable activities of 00:30 on Friday & Saturday and 00:00 on other days.
- recorded music of 2330 on all days
- live music of 2330 on Friday & Saturday and 2300 on other days
- Alcohol not to be served in the last 30 minutes of opening

They also request conditions in relation to noise,

In respect of Public Safety they seek some general conditions, conditions in relation to number of persons on premises, electrical installation, fire safety and lighting.

15. **Fire Authority.**

The fire authority has no representation to make.

16. **Interested Parties.**

The Local Authority received eleven (11) letters of representation in respect of the application. These comprised of three (4) from local businesses, two (2) people who are local residents and have local businesses and (5) from local residents.

**Issues for Clarification**

17. This Authority has requested clarification on particular points from the applicant: - Live Music The application gives no details of the type of live music to be provided. Further details have been requested.
18. Live Music Within the seasonal variations under Live Music on the application form, the applicant has stated 'Would like alternative days in summer months'. Clarification has been sought from the applicant in respect of this.
19. Recorded Music It is noted that the application fails to state whether this activity will take place indoors or outdoors. Clarification has therefore been sought.
20. Recorded Music Further details of the recorded music have been requested from the applicant.
21. Hours premises open to the public The application states that the premises will close at 00:30 hours on a Sunday. It is noted that the licensable activities of supply of alcohol and recorded music will also terminate at this time. The applicant has been asked to inform the Committee how they intend to manage the closer of the premises when the times coincide.
22. Adult Entertainment Full details of the proposed Adult Entertainment to be provided on the premises has been requested from the applicant.

**Herefordshire Council Licensing Policy**

23. 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**

24. 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
- Application Form
- Copies of representation from interested parties.

**Background papers were 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.