

## APPLICATION FOR VARIATION OF PREMISES LICENCE 'COTTERELL ARMS, 65-67 COTTERELL STREET, HEREFORD, HR4 0HH.' - LICENSING ACT 2003

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

### **Wards Affected:**

St Nicholas

### 1. **Purpose**

To consider an application for a variation of premises licence in respect of Cotterell Arms, 65-67 Cotterell Street, Hereford, HR4 9HH.

### 2. **Background Information**

Applicant	Noel KIRBY	
Solicitor	N/A	
Type of application: <b>New</b>	Date received: <b>27/06/06</b>	28 Days consultation <b>25/07/06</b>

The advertisement for the premises has been seen and is correct.

### 3. **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.

### 4. **Current Licence**

The current licence permits the sale of alcohol both on and off the premises: -

Monday-Wednesday : 10:00 - 00:30

Thursday: 10:00 - 01:00

Friday-Saturday: 10:00 - 01:30

Sunday: 10:00 - 00:00

*Non-standard timings:*

Any Sunday prior to a bank holiday to 01:30. New Years Day 10:00 on 31/12 to 23:00 on 1/1

*Hours open to the public*

As shown above

### 5. **Summary of Application**

The licensable activities applied for are: -

Live Music

Recorded Music

Provision of Facilities for Dancing

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

Friday & Saturday                      2030 – 2330

7. The following hours have been applied for in respect of Recorded Music (Indoors): -
- |                    |             |
|--------------------|-------------|
| Monday to Thursday | 1800 – 0030 |
| Friday             | 1800 – 0100 |
| Saturday           | 1200 – 0100 |
| Sunday             | 1200 – 0030 |
8. The following hours have been applied for in respect of Provision of facilities for Dancing (Indoors): -
- |          |             |
|----------|-------------|
| Saturday | 2030 – 2330 |
|----------|-------------|
9. The premises are to be open to the public: -  
No application has been made for variation.
10. **Non Standard hours**  
There is an application for 'non-standard' hours in respect of the activities of live music and provision of facilities dancing which states: - Xmas Eve, New Years Eve, Saints Days and Bank Holidays'.
11. **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.

**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 Safety they request conditions in relation to the removal of open containers, electrical safety, emergency lighting and ventilation.

In respect of Public Nuisance they seek conditions in relation to address the noise issues and also request a curtailing of the activities.

**Fire Authority.**

The fire authority has no representation to make.

**Interested Parties.**

The Local Authority received six (6) letters of representation in respect of the application from local residents.

12. **Issues for Clarification**

This Authority has requested clarification on particular points from the applicant: -  
Live Music & Provision of facilities for dancing.  
Clarification has been sort as to which Saints days are to apply.

Hours premises open to the public

Whilst no application has been made to vary the opening hours, the applicant has been asked to explain how he manages to close the premises at the same time as the licensable activities conclude.

**13. 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.

**14. 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.

**15. Background Papers**

- Environmental Health & Trading Standards Comments
- Application Form
- Copies of representation from interested parties.
- Location plan

**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.