

A G E N D A

Regulatory Sub Committee

Date: **Friday, 23rd September, 2005**

Time: **10.00 a.m.**

Place: **Town Hall, St. Owens Street,
Hereford**

Notes: Please note the **time, date** and **venue** of
the meeting.

For any further information please contact:

*Ricky Clarke, Members' Services,
Tel: 01432 261885 Fax: 01432 261885*

email: rclarke@herefordshire.gov.uk

**County of Herefordshire
District Council**

AGENDA

for the Meeting of the Regulatory Sub Committee

To: Councillors J.W. Hope MBE, Brig. P. Jones CBE and R.I. Matthews

	Pages
<p>1. ELECTION OF CHAIRMAN</p> <p>To elect a Chairman for the hearing.</p>	
<p>2. APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
<p>3. NAMED SUBSTITUTES (IF ANY)</p> <p>To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.</p>	
<p>4. DECLARATIONS OF INTEREST</p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
<p>5. APPLICATION FOR VARIATION OF PREMISES LICENCE 'BARONS CROSS INN, BARONS CROSS ROAD, BARONS CROSS, LEOMINSTER, HEREFORDSHIRE, HR6 8RS.'</p> <p>To consider an application for variation of the premises licence in respect of Barons Cross Inn, Barons Cross Road, Barons Cross, Leominster, Herefordshire, HR6 8RS.</p>	5 - 12
<p>6. APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE ANGEL INN, KINGSLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9QS.'</p> <p>To consider an application for variation of the premises licence in respect of The Angel Inn, Kingsland, Leominster, Herefordshire, HR6 9QS.</p>	13 - 18
<p>7. APPLICATION FOR VARIATION OF PREMISES LICENCE' JD'S, 57 WIDEMARSH STREET, HEREFORD, HR4 9EA.'</p> <p>To consider an application for variation of the premises licence in respect of JD's, 57 Widemarsh Street, Hereford, HR4 9EA.</p>	19 - 26
<p>8. APPLICATION FOR VARIATION OF PREMISES LICENCE 'HORSE & JOCKEY, NEW STREET, ROSS ON WYE, HR9 7DA.'</p> <p>To consider an application for variation of the premises licence in respect of the Horse & Jockey, New Street, Ross on Wye, HR9 7DA.</p>	27 - 32

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	To consider an application for variation of the premises licence in respect of the Man of Ross, Wye Street, Ross on Wye, HR9 7BS.	
10.	APPLICATION FOR VARIATION OF PREMISES LICENCE 'RING O' BELLS, NEW STREET, LEDBURY. HR8 2AE.'	39 - 44
	To consider an application for variation of the premises licence in respect of Ring O' Bells, New Street, Ledbury, HR8 2AE.	
11.	APPLICATION FOR VARIATION OF PREMISES LICENCE 'THREE HORSESHOES, ALLENSMORE, HEREFORD, HR2 9AS.'	45 - 50
	To consider an application for variation of the premises licence in respect of the Three Horseshoes, Allensmore, Hereford, HR2 9AS.	

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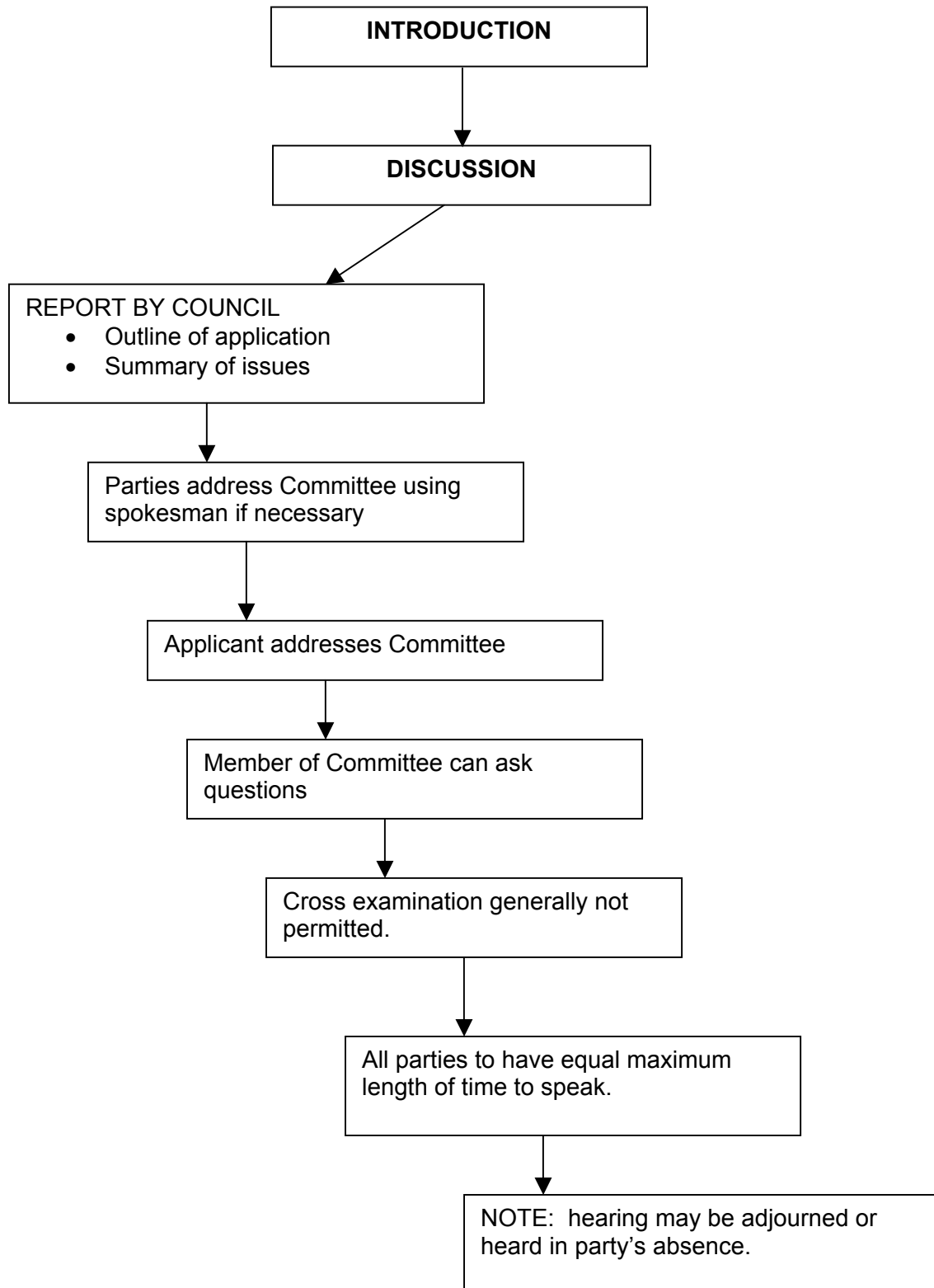
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LICENCING HEARING FLOW CHART



APPLICATION FOR VARIATION OF PREMISES LICENCE IN RESPECT OF 'BARONS CROSS INN, BARONS CROSS ROAD, BARONS CROSS, LEOMINSTER, HEREFORDSHIRE, HR6 8RS' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Leominster South

Purpose

1. To consider an application for variation of the premises licence in respect of Barons Cross Inn, Barons Cross Road, Barons Cross, Leominster, Herefordshire, HR6 8RS.

Background Information

- 2.

Applicant	Mr Henry Sewell Allen		
Solicitor	N/A		
Premise	Barons Cross Inn, Barons Cross Road, Barons Cross, Leominster, Herefordshire, HR6 8RS		
Type of application: Variation	Date received: 02/08/05	28 Days consultation 30/08/05	Issue Deadline: 02/10/05

Conversion Licence Application

3. A conversion licence will be issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises	National Licensing hours apply to On and Off sales 1100am – 2300 Mon – Sat 1200 midday – 2330 Sunday and Good Friday 1100 am New Years Eve – 2400 midnight New Years Day 1200 midday – 1500 pm & 1900 – 2230 Christmas Day

With the following condition attached:-

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (mentioned above)

The premises does not hold a current public entertainment licence.

Variation Licence Application

4. The application for a variation of the premises licence has received representations by responsible authorities and therefore now brought before the sub-committee for determination.

Summary of Application

5. The licensable activities applied for are: -
Live Music (Indoors)
Recorded Music (Indoors)
Provision of facilities for making music (indoors and outdoors)
Provision of facilities for dancing (Indoors and outdoors)
Late Night Refreshment
 Supply of Alcohol (*Both on and off premises*)
 Hours premises open to the public (Not licensable on its own)
(Activities in bold are those not previously licensed)
6. The following hours have been applied for in respect of Live Music (*Indoors and outdoors*):-
- | | |
|--------------|-------------|
| Mon – Sunday | 1200 – 2330 |
|--------------|-------------|
7. The following hours have been applied for in respect of recorded music (*Indoors only*):-
- | | |
|-----------------------------|-------------|
| Monday, Thursday and Sunday | 0800 – 0300 |
| Friday and Saturday | 0800 – 0400 |
8. The following have been applied for in respect of anything of a similar description to that falling within e, f and g (*indoors only*):-
- | | |
|-----------|-------------|
| Mon – Sun | 1200 – 2330 |
|-----------|-------------|
9. The following hours have been applied for in respect of provision of facilities for making music (*indoors and outdoors*):-
- | | |
|-----------|-------------|
| Mon – Sun | 1200 – 2330 |
|-----------|-------------|
10. In respect of provision of facilities for dancing, times have not been submitted.
11. The following hours have been applied for in respect of late night refreshment (*indoors and outdoors*):-
- | | |
|-------------------------|-------------|
| Mon – Thurs, and Sunday | 2330 – 0300 |
| Friday and Saturday | 2330 – 0400 |
12. The following hours have been applied for in respect of supply of alcohol (*indoors and outdoors*):-
- | | |
|------------------------|-------------|
| Mon –Thurs, and Sunday | 0800 – 0200 |
| Friday and Saturday | 0800 – 0300 |
13. The hours that the premises will be open to member of the public:-
-

Mon – Thurs, and Sunday 0800 – 0300
Friday and Saturday 0800 – 0400

14. **Removal of Embedded Restrictions**

The Applicant wishes to remove all Embedded Restrictions inherent in the Licensing Act 1964, The Cinematograph Safety Regulations 1955 and the Children and Young Persons Act 1933.

15. **Summary of Representations**

West Mercia Police

Have commented on Prevention of Nuisance; 'The application which appears to be a photocopy of the original is illegible in parts and clarification is sought as to the control measures that are being proposed, further it is indicated in Section P(b) that the hours proposed are not the usual hours of opening.

'The regulations attached to the Licensing Act 2003 prescribed by Orders make no provision to allow an application for a premises licence to seek unspecified dates and times of operation, particularly where there is no intention of operating those days and hours. It is not lawful for an applicant to seek to keep their options open and avoid stating specifically when non-standard timings will operate.

'In order for a proper determination to be made of the application knowledge of the full extent of the licensable activities proposed and the times they will operate are essential so that responsible authorities and interested parties can form a proper view as to what measures may be necessary to ensure public safety and prevent public nuisance.

'A failure to set out the timing of the licensable activities as required by the Order will prejudice the ability of WNC to deliver a policing service tackling crime and disorder associated with the supply of alcohol on licensed premises.'

Fire Authority

The fire authority have objected to the granting of the licence on the grounds of Public Safety;

'Fire Safety details regarding the marquee have not been provided in this application:-

Any events taking place in a marquee will need to be the subject of a fire risk assessment.'

Environmental Health

Environmental Health have made comments on three of the four objectives; Prevention of Nuisance, Public Safety and Protection of Children from harm.

'The premise is situated in close proximity to residential properties and concerns are raised over the potential noise breakout in relation to noise emanating from the premises and people leaving the premises in the early hours of the morning. Local residents are entitled to the quiet enjoyment of their homes and would be grateful for undisturbed sleep. I believe that these opening times are excessive in the circumstances.'

With regards to Public Safety, they received some General Safety Conditions, as well as gas, electricity, fire safety, lighting and first aid.

In respect of Protection of Children from harm, they comment that the applicant needs to ensure the prevention of underage sales. Details are contained within the Environmental Health Officer's report. Additional information is contained within the background notes.

Interested Parties

The Local Authority has received 2 letters of representation in respect of the application, and general area from residents.

The concerns relate to:

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

16. Issues for Clarification

This Authority has requested clarification from the applicant, Henry Sewell Allen, and the Area Manager, Paul Boswell. At the time of writing they have not been back in touch.

Clarification is sought on the following;

The 60 minute drinking up time.

The scheduled times for the supply of alcohol are not 'the usual' for occasional use only.

No detail is given to the use of the premises. A figure of 750 maximum people on the premises is given. Clarification is sought on what type of entertainment you propose and where and how you intend to prevent noise nuisance and ensure public safety. If it is a temporary structure then please advise the committee.

17. 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.

18. 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.

19. **Background Papers**

- Public Representation forms
- Environmental Health & Trading Standards Comments
- Application Form
- Any other associated papers

Background papers are available for inspection in the Town Hall, St Owens Street, 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...

5.74 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...

The operating schedule

5.46 The operating schedule will form part of the completed application form for a premises licence. An operating schedule should include information which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory.

An operating schedule must also set out the following details:

- The relevant licensable activities to be conducted on the premises;
- The times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year);

Schedule 1 of the Licensing Act 2003 defines regulated entertainment as follows: -

The descriptions of entertainment are-

- a performance of a play,
- an exhibition of a film,
- an indoor sporting event,
- a boxing or wrestling entertainment,
- a performance of live music,
- any playing of recorded music,
- a performance of dance,
- entertainment of a similar description to that falling within paragraph (e), (f) or (g),

where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.

Incidental music

5.18 The incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated entertainment activities under the 2003 Act in certain circumstances. This is where they are incidental to another activity which is not itself entertainment or the provision of entertainment facilities.

So, for example, a juke box played in a public house at moderate levels would normally be regarded as incidental to the other activities there, but one played at high volume would not benefit from this exemption. Stand-up comedy is not regulated entertainment and musical accompaniment incidental to the main performance would not make it a licensable activity.

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.

**APPLICATION FOR VARIATION OF PREMISES
LICENCE IN RESPECT OF 'THE ANGEL INN,
KINGSLAND, LEOMINSTER, HEREFORDSHIRE, HR6
9QS' - LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Bircher

Purpose

1. To consider an application for variation of the premises licence in respect of The Angel Inn, Kingsland, Leominster, Herefordshire, HR6 9QS.

Background Information

2.

Applicant	Susan and Matthew Frost		
Solicitor	Slee Blackwell Solicitors, 10 Cross Street, Barnstaple, Devon, EX31 1BA		
Premise	The Angel Inn, Kingsland, Leominster, Herefordshire, HR6 9QS		
Type of application: Variation	Date received: 05/08/05	28 Days consultation 02/09/05	Issue Deadline: 05/10/05

Conversion Licence Application

3. A conversion licence will be issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises	National licensing hours Mon – Sat 1100 am – 2300 pm Sunday and Good Friday 1200 midday – 2300 pm New Years Eve 1100 am – 24 midnight Christmas Day 1200 midday – 1500pm and 1900 pm – 2230 pm

With the following condition attached:-

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (mentioned above)

The premises does not hold a current public entertainment licence.

Variation Licence Application

4. The application for a variation of the premise licence has received representations by responsible authorities and is therefore now brought before the sub-committee for determination.

Summary of Application

5. The licensable activities applied for are: -

Live music (*Indoors and outdoors*)
 Recorded music (*Indoors and outdoors*)
 Performance of dance (*Outdoors*)
 Provision of facilities for dancing (*Indoors*)
 Late Night Refreshment (*Indoors and outdoors*)

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

Friday and Saturday	1100 – 0100
Sunday	1100 – 2400

7. The following hours have been applied for in respect of recorded music (*Indoors only*):-

Monday to Thursday, & Sunday	1100 – 2400
Friday and Saturday	1100 – 0100

8. The following have been applied for in respect of performances of dance (*outdoors only*):-

Friday, Saturday and Sunday	1100 – 2100
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9. The following hours have been applied for in respect of provision of facilities for making music and provision of facilities for dancing (*indoors only*):-

Friday, Saturday and Sunday	1100 – 0100
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10. The following hours have been applied for in respect of Late Night Refreshment (*indoors and outdoors*):-

Monday to Thursday, & Sunday	1100 – 2400
Friday and Saturday	1100 – 0100

11. The following hours have been applied for in respect of supply of alcohol (*indoors and outdoors*):-

Monday to Thursday, & Sunday	1100 – 2400
Friday and Saturday	1100 – 0100

12. The hours that the premises will be open to members of the public:-

Monday to Thursday & Sunday	1100 – 2400
Friday and Saturday	1100 – 0100

13. Non Standard hours

The application applies for 'non-standard' hours.

In respect of Recorded Music and Late Night Refreshment, the applicant has stated 'a further additional hour from 11am on New Years Eve through to 0200 am on New Years Day.'

In respect of the supply of alcohol and the hours the premises are open to the public:-

1100 New Years Eve through to 0200 am New years day

14. Summary of Representations**West Mercia Police**

Have made no objection regarding the conversion of the licence. However, in respect of the variation, they have noted that the provision is made for a drinking up time but the hours stated at M and O within the form do not reflect this fact.

Fire Authority

The fire authority have made comments about a fire risk assessment being required.

Environmental Health

Environmental Health have made comment on the prevention of public nuisance, public safety and prevention of harm of children. The suggestions are listed in the background papers.

Interested Parties

The Local Authority has received 17 letters of representation in respect of the application, and general area from residents.

The concerns relate to:

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

15. Issues for Clarification

The Authority has requested clarification from the applicants, Susan and Matthew Frost, on opening times and sale of alcohol Bank Holidays and Christmas Eve, drinking-up times, and clarification on times for dancing inside and outside. Also clarification is sought on occasional live music and "the appropriate volume".

16. 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.

17. 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.

18. Background Papers

- Public Representation forms
- Environmental Health & Trading Standards Comments
- Application Form
- Any other associated papers

Background papers are available for inspection in the Town Hall, 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**

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5.74 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...

The operating schedule

5.46 The operating schedule will form part of the completed application form for a premises licence. An operating schedule should include information which is

necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory.

An operating schedule must also set out the following details:

- The relevant licensable activities to be conducted on the premises;
- The times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year);

Schedule 1 of the Licensing Act 2003 defines regulated entertainment as follows: -

The descriptions of entertainment are-

- a performance of a play,
- an exhibition of a film,
- an indoor sporting event,
- a boxing or wrestling entertainment,
- a performance of live music,
- any playing of recorded music,
- a performance of dance,
- entertainment of a similar description to that falling within paragraph (e), (f) or (g),

where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.

Incidental music

5.18 The incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated entertainment activities under the 2003 Act in certain circumstances. This is where they are incidental to another activity which is not itself entertainment or the provision of entertainment facilities.

So, for example, a juke box played in a public house at moderate levels would normally be regarded as incidental to the other activities there, but one played at high volume would not benefit from this exemption. Stand-up comedy is not regulated entertainment and musical accompaniment incidental to the main performance would not make it a licensable activity.

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.

APPLICATION FOR VARIATION OF PREMISES LICENCE 'JD's, 57 WIDEMARSH STREET, HEREFORD, HR4 9EA' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Central

1. Purpose

To consider an application for variation of the premises licence in respect of JD's, 57 Widemarsh Street, Hereford, HR4 9EA.

2. Background Information

Applicant	Punch Taverns, Jubilee House, Second Avenue, Burton Upon Trent, Staffordshire. DE14 2WF.		
Solicitor	TLT Solicitors, One Redcliff Street, Bristol. B51 6TP.		
Type of application: Variation	Date received: 25/07/05	28 Days consultation 22/08/05	Issue Deadline: 25/09/05

The Justices Licence, Public Entertainment Licence and the advertisement for the premises have been seen and accepted.

3. Conversion Licence Application

The premises currently have a Justices On Licence and a PEL. A conversion licence has been issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon-Sat 1000 to 2300 hours Sun 1200 to 2230 hours Good Friday 1200 to 2230 hours Christmas Day 1200 to 1500 hours and 1900 to 2230 hours. New Years Eve 1000 hours to 2300 hours New Years Day
Public Entertainment	Mon to Sat 1100 to 2330 hours Sunday 1100 to 2230 hours for musical entertainment only and 1900 to 22.30 for dancing where no admission charge is made

With the following condition attached:-

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (Drinking up time).
- Current Public Entertainment Licence Conditions for the premise.

4. **Variation Licence Application**

The application for a variation to the premise licence has received representations by responsible authorities and the Hereford City Partnership Ltd. It is therefore now brought before the sub-committee for determination.

5. **Summary of Application**

The licensable activities applied for are: -

Live Music

Recorded Music

Provision of facilities for making music *

Provision of facilities for dancing *

Provision of facilities similar to making music or dancing *

Supply of Alcohol

(* Not previously licensed)

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

Monday to Tuesday 1000 – 0000

Wednesday 1000 – 0100

Thursday & Sunday 1000 – 0200

Friday & Saturday 1000 – 0400

7. The following hours have been applied for in respect of Recorded Music (*Indoors Only*): -

Monday to Tuesday 1000 – 0000

Wednesday 1100 – 0100

Thursday & Sunday 1000 – 0200

Friday & Saturday 1000 – 0400

8. The following hours have been applied for in respect of Provision of facilities for making music, Provision of facilities for dancing, Provision of facilities similar to making music or dancing (*All Indoors Only*) and the Supply of Alcohol (*Both on & off premises*): -

Monday to Tuesday 1000 – 0000

Wednesday 1000 – 0100

Thursday 1000 – 0200

Friday & Saturday 1000 – 0400

Sunday 1200 – 0200

9. The hours the premises will be open are: -

Monday to Tuesday 1000 – 0030

Wednesday 1000 – 0130

Thursday & Sunday 1000 – 0230

Friday & Saturday 1000 – 0430

10. Non Standard hours

No application has been made for 'non-standard' hours.

11. Removal of Conditions

No application has been made to remove any conditions of the converted licence.

12. Summary of Representations**West Mercia Police**

Have made representation and have requested a total of twelve conditions to be shown on the licence to address the licensing objective of crime and disorder.

They also make comment in respect of the applicant's statement continued within their licensing objectives regarding 24-hour CCTV coverage.

Environmental Health

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

In respect of Public Nuisance they seek ten conditions to be shown on the licence mainly dealing with the prevention of noise from the premises.

In respect of public safety they note that the current Public Entertainment Licence conditions are to be carried over onto the new licence but request one additional condition be added regarding the removal of open containers from the premises.

Fire Authority.

The fire authority have no comment to make.

Interested Parties

The Local Authority has received 1 letter of representation from Hereford City Partnership Ltd requesting payment towards the ongoing revenue cost of manning CCTV cameras 24 hours a day.

13. Issues for Clarification

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

The Applicant – Punch Taverns

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

Clarification Regarding Proposed Licensing Objective

It has been noted that within the proposed additional steps to be taken to promote the licensing objectives, contained with Section Q Page 23 of the application, under 'Prevention of Crime and Disorder', the applicant has stated that 'The radio control message is relayed to the Police who have 24 hour CCTV for the whole of the town centre, this can be activated to follow offenders'.

Police have made the following comment, contained within their representation regarding this:- 'Clarification is sought on what the applicant is proposing, because at this time there is not 24 hour CCTV coverage of Hereford, and the inclusion of this section in the operating schedule is either misleading, or an offer by way of a condition to provide 24 hour cover as described.

The applicant has therefore been asked to clarify this statement.

Live Music, Recorded Music, Provision of facilities for making music and Provision of facilities for dancing

The application made in respect of the above activities under the section 'Please give further details' only contains the words 'To extend the existing Public Entertainment Licence as per the hours listed in standard timings'. The guidance notes contained within the application form state ' Please state type of activities to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified'.

The applicant has therefore been asked to provide details of the types of activities to be authorised.

Provision of facilities similar to making music or dancing

The application under this section has recorded in 'Please Give Further Details' the word 'None'. Clarification is therefore sought from the applicant as to the details of the activities that will be covered by this part of the licence.

14. 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.

15. 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.

16. **Other Matters for Consideration by the Committee**

The committee are asked to consider the following: -

1. Whether they consider the representation by Hereford City Partnership Ltd to be a relevant representation and
2. Is they decide that it is, whether or not a condition relating to the ongoing revenue cost of CCTV should be attached to the licence.

17. **Background Papers**

- Public Representation
- Police Comments
- Environmental Health & Trading Standards Comments
- Application Form
- Public Entertainment Licence Conditions

Background papers are available for inspection in the Town Hall, 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....

The operating schedule

5.46 The operating schedule will form part of the completed application form for a premises licence. An operating schedule should include information, which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory.

An operating schedule must also set out the following details:

the relevant licensable activities to be conducted on the premises;

the times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year);

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.

APPLICATION FOR VARIATION OF PREMISES LICENCE 'HORSE & JOCKEY, NEW STREET, ROSS ON WYE, HR9 7DA.' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Ross on Wye West/East

1. Purpose

To consider an application for variation of the premises licence in respect of Horse & Jockey, New Street, Ross on Wye, HR9 7DA.

2. Background Information

Applicant	Punch Taverns, Jubilee House, Second Avenue, Burton Upon Trent, Staffordshire. DE14 2WF.		
Solicitor	TLT Solicitors, 1 Redcliff Street, Bristol. B51 6TP.		
Type of application: Variation	Date received: 2/08/05	28 Days consultation 30/08/05	Issue Deadline: 1/10/05

The Justices Licence for the premises has been seen and accepted. The advertisement has not been seen at this time.

3. Conversion Licence Application

The premises currently only holds a Justices On Licence. A conversion licence has been issued as follows: -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon-Sat 1000 to 2300 hours
	Sun 1200 to 2230 hours
	Good Friday 1200 to 2230 hours
	Christmas Day 1200 to 1500 hours and 1900 to 2230 hours.
	New Years Eve 1000 hours to 2300 hours
	New Years Day

With the following condition attached:-

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (Drinking up time).

4. Variation Licence Application

The application for a variation to the premises licence has received representations by responsible authorities and an interested party. It is therefore now brought before the sub-committee for determination.

5. Summary of Application

The licensable activities applied for are: -

Live Music

Recorded Music

Provision of facilities similar to making music or dancing *

Supply of Alcohol

(* Not previously licensed)

6. The following hours have been applied for (*Indoors Only*) in respect of Live Music, Recorded Music, Provision of facilities similar to making music and dancing and the Supply of Alcohol (*Both on and off premises*): -

Monday to Wednesdays 1100 – 2300

Thursday to Saturday 1100 – 0000

Sunday 1200 – 2230

The premises to close to the public 30 minutes after these times.

7. Non Standard hours

The application applies for ‘**non-standard**’ hours in respect of all of the licensable activities applied for and requests:-

A further additional hour on Friday, Saturday, Sunday and Monday of the May Bank Holidays, Spring/Whitsun Bank Holiday, August Bank Holidays and Easter Bank Holiday, with an additional hour on the Thursday of the Easter Weekend.

A further additional hour on Christmas Eve and Boxing Day

9. Removal of Conditions

The applicant has not applied to remove any conditions.

10. Summary of Representations**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 Nuisance and Public Safety.

In respect of public nuisance they request four conditions in relation to noise and vibration.

In respect of public safety they seek a further four conditions.

No conditions have been agreed at the time of this report.

The suggested conditions can be found within the background papers.

Fire Authority.

The fire authority has made no representation.

Interested Parties

The Local Authority has received 1 letter of representation from a local resident in respect of the application.

The concerns relate to:

- Prevention of Public Nuisance

11. Issues for Clarification

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

Applicant – Punch Taverns

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

Live Music

The live music provided will be limited to two entertainers only.

Non-Standard Timings

In respect of the application under non-standard timings regarding 'A further additional hour on Christmas Eve and Boxing Day' they have been asked to confirm that this is to be added to the end of the standard timings as opposed to the beginning

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 Form
- Environmental Health & Trading Standards Comments
- Fire Authority Comments
- Application Form
- Location Map

Background papers are available for inspection in the Town Hall, 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....

Two in a bar

13.29 In addition, many premises where a justices’ on-licence granted under the Licensing Act 1964 is in force have previously enjoyed disapplication from the requirement for a public entertainment licence under legislation relating to public entertainment for two performers providing live musical entertainment (the “two in a bar” rule). This disapplication will not be carried forward when existing licences are converted. Premises which do not hold existing public entertainment licences will need to apply to vary their newly converted premises licences if they wish to continue providing such performances.

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.

APPLICATION FOR VARIATION OF PREMISES LICENCE 'MAN OF ROSS, WYE STREET, ROSS ON WYE, HR9 7BS' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Ross on Wye West/East

1. Purpose

To consider an application for variation of the premises licence in respect of Man of Ross, Wye Street, Ross on Wye, HR9 7BS.

2. Background Information

Applicant	Punch Taverns, Jubilee House, Second Avenue, Burton Upon Trent, Staffordshire. DE14 2WF.		
Solicitor	TLT Solicitors, 1 Redcliff Street, Bristol. B51 6TP.		
Type of application: Variation	Date received: 2/08/05	28 Days consultation 30/08/05	Issue Deadline: 1/10/05

The Justices Licence for the premises have been seen and accepted. The advertisement has not been seen at this time.

3. Conversion Licence Application

The premises currently have a Justices On Licence only. A conversion licence has been issued as follows: -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon-Sat 1000 to 2300 hours
	Sun 1200 to 2230 hours
	Good Friday 1200 to 2230 hours
	Christmas Day 1200 to 1500 hours and 1900 to 2230 hours.
	New Years Eve 1000 hours to 2300 hours
	New Years Day

With the following condition attached: -

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (Drinking up time).

4. Variation Licence Application

The application for a variation has received representations by responsible authorities and from an interested party It therefore is now brought before committee to determine the application.

5. **Summary of Application**

The licensable activities applied for are: -

Live Music

Recorded Music

Supply of Alcohol

6. The following hours have been applied for (*Indoors Only*) in of Live Music, Recorded Music and the Supply of Alcohol (*Both on and off premises*): -

Monday to Wednesday 1100 – 2300

Thursday to Saturday 1100 – 0100

Sunday 1200 – 0030

The premises will be open to the public for a further 30 minutes after these times.

7. **Non Standard hours**

The application applies for '**non-standard**' hours in respect all the licensable activities and requests a further additional hour on Christmas Eve and Boxing Day.

8. **Removal of Conditions**

The applicant has not applied to remove any conditions.

9. **Summary of Representations**

West Mercia Police

Have made representation in relation to the application.

They request a last entry time and a condition preventing the removal of open containers from the premises in order to address the licensing objective of the prevention of crime and disorder.

Environmental Health

Environmental Health Officers have made representations in relation to the application. This representation addresses the licensing objectives of Public Safety, Prevention of Public Nuisance and the Protection of Children from Harm.

In respect of public safety they ask for a number of general conditions as well as conditions in relation to overcrowding, ventilation & heating, lighting, removal of open containers and electrical, fire and gas safety.

In respect of public nuisance they request three conditions relating to noise and vibration.

They also request five conditions to address the protection of children from harm.

No conditions have been agreed at the time of this report.

Fire Authority.

The fire authority has made no representation.

Interested Parties

The Local Authority has received 1 letter of representation in respect of the application, from a local resident.

The concerns relate to:

- Prevention of Public Nuisance

10. Issues for Clarification

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

Applicant – Punch Taverns

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

Live Music

The live music provided will be limited to two entertainers only.

Non-Standard Timings

In respect of the application under non-standard timings regarding 'A further additional hour on Christmas Eve and Boxing Day' they have been asked to confirm that this is to be added to the end of the standard timings as opposed to the beginning

11. 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 submitted in relation to the application.

12. 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.

13. **Background Papers**

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

Background papers are available for inspection in the Town Hall, Hereford, 30 minutes before the start of the hearing.

NOTES

Further information on the subject of this report is available from Suzanne Laughland, Licensing Manager on (01432) 261675

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....

Two in a bar

- 13.29 In addition, many premises where a justices’ on-licence granted under the Licensing Act 1964 is in force have previously enjoyed disapplication from the requirement for a public entertainment licence under legislation relating to public entertainment for two performers providing live musical entertainment (the “two in a bar” rule). This disapplication will not be carried forward when existing licences are converted. Premises which do not hold existing public entertainment licences will need to apply to vary their newly converted premises licences if they wish to continue providing such performances.

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.

**APPLICATION FOR VARIATION OF PREMISES
LICENCE 'RING O' BELLS, NEW STREET, LEDBURY.
HR8 2AE' - LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Ledbury

1. Purpose

To consider an application for variation of the premises licence in respect of Ring O' Bells, New Street, Ledbury. HR8 2AE.

2. Background Information

Applicant	Punch Taverns PLC, Jubilee House, Second Avenue, Burton Upon Trent. Staffordshire. DE14 2WF.		
Solicitor	TLT Solicitors, 1 Redcliff Street, Bristol. BS1 6TP		
Type of application: Variation	Date received: 29/07/05	28 Days consultation 26/08/05	Issue Deadline: 28/09/05

The Justices Licence and advertisement for the premises have been seen and accepted.

3. Conversion Licence Application

The premises currently only holds a Justices On Licence. A conversion licence has been issued as follows: -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon-Sat 1000 to 2300 hours
	Sun 1200 to 2230 hours
	Good Friday 1200 to 2230 hours
	Christmas Day 1200 to 1500 hours and 1900 to 2230 hours.
	New Years Eve 1000 hours to 2300 hours
	New Years Day

With the following condition attached:-

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (Drinking up time).

4. Variation Licence Application

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

5. Summary of Application

The licensable activities applied for are: -

Live Music *

Recorded Music

Late Night Refreshment

Supply of Alcohol

(* Not previously licensed)

6. The following hours have been applied for (*Indoors Only*) in respect of Live Music, Recorded Music and the Supply of Alcohol (*Both on and off premises*):-

Sunday to Wednesday 1000 – 0000

Thursday 1000 – 0200

Friday & Saturday 1000 – 0300

7. The following hours have been applied for (*Indoors Only*) in respect of Late Night Refreshment

Thursday 2300 – 0200

Friday & Saturday 2300 - 0300

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

Sunday to Wednesday 1000 – 0030

Thursday 1000 – 0230

Friday & Saturday 1000 – 0330

9. Non Standard hours

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

9. Removal of Conditions

The applicant has not applied to remove any conditions.

10. Summary of Representations**West Mercia Police**

Have made representation in relation to the application.

The applicant has since agreed that the following conditions will be attached to the licence: -

- End of supply of alcohol to be 1am
- Last entry to premises to be 11.30pm

Environmental Health

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

In respect of public nuisance they request that the hours applied for be curtailed and a further six conditions relating to control of noise be applied to the licence.

In respect of public safety they seek three general conditions and one in relation to first aid.

No conditions have been agreed at the time of this report.

The suggested conditions can be found in the background papers.

Fire Authority.

The fire authority has made no representation.

Interested Parties

The Local Authority has received 26 letters of representation in respect of the application, from local residents.

The concerns relate mainly to:

- Prevention of Public Nuisance

11. Issues for Clarification

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

The Applicant – Punch Taverns

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

Live Music

To confirm that this part of the application only relates to 2 live performers providing the live 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 submitted in respect of the application.

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 Town Hall, 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....

Two in a bar

- 13.29 In addition, many premises where a justices’ on-licence granted under the Licensing Act 1964 is in force have previously enjoyed disapplication from the requirement for a public entertainment licence under legislation relating to public entertainment for two performers providing live musical entertainment (the “two in a bar” rule). This disapplication will not be carried forward when existing licences are converted. Premises which do not hold existing public entertainment licences will need to apply to vary their newly converted premises licences if they wish to continue providing such performances.

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.

APPLICATION FOR VARIATION OF PREMISES LICENCE 'THREE HORSESHOES INN, ALLENSMORE, HEREFORD, HR2 9AS.' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Valletts

1. Purpose

To consider an application for variation of the premises licence in respect of Three Horseshoes, Allensmore, Hereford, HR2 9AS.

2. Background Information

Applicants	Mark William & Brigitte Anne RATCLIFFE		
Solicitor	N/A		
Type of application: Variation	Date received: 2/08/05	28 Days consultation 30/08/05	Issue Deadline: 1/10/05

The Justices Licence and advertisement for the premises have been seen and accepted.

3. Conversion Licence Application

The premises currently have a Justices On Licence only. A conversion licence has been issued as follows: -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon-Sat 1000 to 2300 hours
	Sun 1200 to 2230 hours
	Good Friday 1200 to 2230 hours
	Christmas Day 1200 to 1500 hours and 1900 to 2230 hours.
	New Years Eve 1000 hours to 2300 hours
	New Years Day

With the following condition attached: -

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (Drinking up time).

The premises does not currently hold a justices on licence.

4. Variation Licence Application

The application for a variation to the premises licence has received no representations from responsible authorities but one from an interested party. It therefore is now brought before the sub-committee for determination.

5. Summary of Application

The licensable activities applied for are: -
Late Night Refreshment
Supply of Alcohol

6. The following hours have been applied for (*Indoors Only*) in respect of Late Night Refreshment: -

Monday to Thursday	1000 – 0000
Saturday & Sunday	1000 – 0100

(No hours have been applied for on Fridays)

7. The following hours have been applied for in respect of the Supply of Alcohol (*Both on and off premises*): -

Sunday to Thursday	1000 – 0000
Friday & Saturday	1000 – 0100

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

Monday to Thursday	1000 – 0030
Friday & Saturday	1000 – 0330

(According to the application the premises are not to open on a Sunday)

9. Non Standard hours

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

10. Seasonal Variation

The application applies for a seasonal variation on Christmas Evening with the opening hours of 1000 till 0200.

11. Removal of Conditions

The applicant has not applied to remove any conditions.

12. Summary of Representations**West Mercia Police**

Have made no representation in relation to the application.

Environmental Health

Environmental Health Officers have made no representation in relation to the application.

Fire Authority.

The fire authority has made no representation.

Interested Parties

The Local Authority has received 1 letter of representation in respect of the application, from a local resident.

The concerns relate to:

- Prevention of Crime & Disorder
- Prevention of Public Nuisance

11. Issues for Clarification

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

The Applicant – Mark William & Brigitte Anne RATCLIFFE

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

Recorded Music

It has been noted from the application, that whilst recorded music has not been applied for, that within the recorded music box the words 'Background Music Only' are shown. The applicant has been asked to confirm that any music provided at the premises will be incidental to the licensable activities applied for.

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 submitted in respect of the application.

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 Form
- Application Form

Background papers are available for inspection in the Town Hall, 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....

Incidental music

- 5.18 The incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated entertainment activities under the 2003 Act in certain circumstances. This is where they are incidental to another activity which is not itself entertainment or the provision of entertainment facilities. This exemption does not extend to the provision of other forms of regulated entertainment. Whether or not music of this kind is “incidental” to other activities is expected to be judged on a case by case basis and there is no definition in the 2003 Act. It will ultimately be for the courts to decide whether music is “incidental” in the individual circumstances of any case. In the first instance, the operator of the premises concerned must decide whether or not he considers that he needs a premises licence. One factor that is expected to be relevant is “volume”. Common sense dictates that live or recorded music played at volumes which predominate over other activities at a venue could rarely be regarded as incidental to those activities. So, for example, a juke box played in a public house at moderate levels would normally be regarded as incidental to the other activities there, but one played at high volume would not benefit from this exemption. Stand-up comedy is not regulated entertainment and musical accompaniment incidental to the main performance would not make it a licensable activity. But there are likely to be some circumstances which occupy a greyer area. In cases of doubt, operators should seek the advice of the licensing authority, particularly with regard to their policy on enforcement.

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.

