

## APPLICATION FOR VARIATION OF A PREMISES LICENCE FOR 'SEVEN STARS, 11 THE HOMEND, LEDBURY, HR8 1BN' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Ledbury

#### 1. Purpose

To consider an application for a variation of a premises licence in respect of 'Seven Stars, 11 The Homend, Ledbury, HR8 1BN.'

#### 2. Background Information

Applicant	Punch Taverns PLC		
Solicitor	TLT Solicitors		
Type of application: <b>New</b>	Date received: <b>02/08/07</b>	28 Days consultation <b>30/08/07</b>	

The original advertisement for the premises has not been seen at this time.

#### 3. Variation Licence Application

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

#### 4. Current Licence

The current licence authorises the following: -

	Live Music	Recorded Music & Supply of Alcohol	Late Night Refreshment	Hours Open to the Public
Monday	1000 - 2300	1000 - 01200	2300 - 0100	1000 -0130
Tuesday	1000 - 2300	1000 - 0100	2300 - 0100	1000 -0130
Wednesday	1000 - 2300	1000 - 0100	2300 - 0100	1000 -0130
Thursday	1000 - 2300	1000 - 0100	2300 - 0100	1000 -0130
Friday	1000 - 0100	1000 - 0100	2300 - 0100	1000 -0130
Saturday	1000 - 0100	1000 - 0100	2300 - 0100	1000 -0130
Sunday	1200 - 2230	1200 - 0000	2300 - 0000	1200 -0030

**5. Summary of Application**

The application applies to vary the hours in respect of the sale of alcohol, as shown below: -

Friday & Saturday                      10:00 – 02:00

5. As a consequence the hours the premise are to be open to the public, on these days will be: -

10:00 – 02:30

**10. Non Standard hours**

There is an application for 'non-standard' hours as follows: -

A further additional hour on Christmas Eve and Boxing Day if falling on a Friday or a Saturday.

**11. Summary of Representations**

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

**West Mercia Police**

Have made representation and object to the grant of the variation.

**Environmental Health**

Have made representation in relation to public nuisance and request 2 conditions in respect of closure of windows and a dispersal policy.

**Fire Authority.**

Have no representation to make.

**12. Issues for Clarification**

This Authority has not requested clarification on any points at this time.

**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 all documents submitted in respect of the application.

**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**

- Application Form
- Copies of representation from responsible authorities
- 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.