

## APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE CHASE INN, CHASE ROAD, UPPER COLWALL. MALVERN. WR13 6DJ- LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Hope End

#### 1. Purpose

To consider an application for variation of the premises licence in respect of The Chase Inn, Chase Road, Colwall, Malvern, WR13 6DJ.

#### 2. Background Information

Applicant	<b>Duncan IRONMONGER</b>		
Solicitor	<b>Amanda Pillinger, Harrison Clarke, Worcester.</b>		
Type of application: <b>Conversion Variation</b>	Date received: <b>19/07/05</b>	28 Days consultation <b>16/08/05</b>	Issue Deadline: <b>18/09/05</b>

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; -

<b>Licensable activity</b>	<b>Hours</b>
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 currently does not have a Public Entertainment Licence.

**4. Variation Licence Application**

The application for a variation has received representations by responsible authorities and also members of the public. 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 \*

Anything similar to Live Music or Recorded Music or Performance of Dance \*

Provision of facilities for making music \*

Provision of facilities for dancing \*

Provision of facilities for entertainment similar to provision of facilities for making music and dancing \*

Late Night Refreshment \*

Supply of Alcohol

Hour's premises open to the public (Not licensable on it's own)

(\* Not previously licensed)

6. The following hours have been applied for in respect of Live Music (*Both Indoors & Outdoors*), Recorded Music (*Both Indoors & Outdoors*), Anything similar to Live Music or Recorded Music or Performance of Dance (*Both Indoors & Outdoors*), Provision of facilities for making music (*Indoors only*), Provision of facilities for dancing (*Indoors only*), Provision of facilities for entertainment similar to provision of facilities for making music and dancing (*Indoors only*), and the Supply of Alcohol (*Both on and off premises*): -

Sunday to Thursday 1000 – 0000

Friday & Saturday 1000 – 0100

7. The following hours have been applied for in respect Late Night Refreshment (*Indoors only*): -

Sunday to Thursday 2300 – 0000

Friday & Saturday 2300 – 0100

8. The hours that the premises will be open to members of the public

Sunday to Thursday 1000 – 0100

Friday & Saturday 1000 – 0200

**9. Non Standard hours**

The application applies for 'non-standard' hours in respect of all licensable activities with the exception of late night refreshment, as follows: -

New Years Eve from 1000 until start of permitted hours on 1st January. Wish to extend permitted hours until 0100 on 21st October, 23rd April and on all the days between 24th December and 31st December.

In respect of Late Night Refreshment: -  
New Years Eve from 2300 until 0500. Wish to extend permitted hours until 0100 on 21st October, 23rd April and on all the days between 24th December and 31st December.

In respect of the hours the premises are open to the public: -  
New Years Eve from 1000 until start of permitted hours on 1st January.

## 12. **Summary of Representations**

### **West Mercia Police**

Have no relevant representation to make.

### **Environmental Health**

Environmental Health Officers have made representations in relation to the application. This representation addresses the licensing objectives of Public Nuisance and requests two conditions in respect of this.

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 32 letters of representation in respect of the application, from local residents.

The concerns relate to:

- The Prevention of Crime & Disorder
- Prevention of Public Nuisance
- Public Safety
- Protection of Children from Harm

## 13. **Issues for Clarification**

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

### The Applicants Solicitor – Amanda Pillinger

Has been requested to provide clarification in respect of matters contained within the application, regarding the following: -

To provide confirmation that both herself and the applicant have stated to local residents that it is not their intention to significantly change the style of operation of the premises, that outdoor entertainment will take place very occasionally and that the full extended hours will not be used every night.

It would appear that there is no intention to use the extended hours every night, they have been asked to specify the actual days and hours that they propose will apply.

She has been asked to explain to this authority why it is not suitable to use temporary event notices on those occasions when they wish to operate outside the existing licensing hours.

It is noted that the application applies for recorded music both indoors and outdoors, yet there are no further details shown in respect of this other than that 'there will be no entertainment outside after 23.00'. She has been asked to inform us whether it is the intention to use both amplified and non-amplified recorded music and whether this will be both inside and outside.

The only information specified in Item K of the application (the provision of facilities for items similar to the Provision of the facilities for making music and dancing) states 'As required'. She has been asked to expand upon this further and provided full 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.

#### 17. **Background Papers**

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

**Background papers are available for inspection in the Library, Shirehall, Hereford 30 minutes before the start of the hearing.**

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**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

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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.