

## APPLICATION FOR VARIATION OF PREMISES LICENCE 'WHITE HOUSE, WHITTERN WAY, HEREFORD. HR1 1PG' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

### Wards Affected:

Belmont

### 1. Purpose

To consider an application for variation of the premises licence in respect of White House, Whittern Way, Hereford. HR1 1PG.

### 2. Background Information

Applicant	<b>Punch Taverns, Jubilee House, Second Avenue, Burton Upon Trent, Staffordshire. DE14 2WF.</b>		
Solicitor	<b>TLT Solicitors, 1 Redcliff Street, Bristol. B51 6TP.</b>		
Type of application: <b>Variation</b>	Date received: <b>25/07/05</b>	28 Days consultation <b>22/08/05</b>	Issue Deadline: <b>25/09/05</b>

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

### 3. Conversion Licence Application

The premises currently hold 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).

The premises do not hold a public entertainment licence.

**4. Variation Licence Application**

The application for a variation has received representations by responsible authorities and also a member of the public. It is 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

(\* Not previously licensed)

**6. The following hours have been applied for in respect Live Music and Recorded Music (*Both Indoors Only*), the supply of alcohol (*Both On & Off Premises*) : -**

Monday to Thursday 1100 – 0000

Friday & Saturday 1100 – 0100

Sunday 1200 – 2230

**7. The hours the premises will be open are: -**

Monday to Thursday 1100 – 0030

Friday & Saturday 1100 – 0130

Sunday 1200 – 2230

**8. Non Standard hours**

The application applies for '**non-standard**' hours in respect of all the licensable activities as follows: -

A further additional hour on every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday.

A further additional hour on Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday

A further additional hour on Christmas Eve and Boxing Day

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

Have no representation to make regarding the application.

**Environmental Health**

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

In respect of Public Nuisance they seek conditions in relation to the prevention of noise and vibration control.

In respect of public safety they ask for some general conditions as well as conditions in relation to Overcrowding, Ventilation and Heating, Gas & Electricity Installations, Fire Safety, Lighting, First Aid and removal of open containers.

In respect of the protection of children from harm they request a further five conditions.

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 comment.

### **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.

## **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 respect of 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.

17. **Background Papers**

- Public Representation Form
- 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....

**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.