

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.