

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.

