

## APPLICATION FOR VARIATION OF PREMISES LICENCE 'MAN OF ROSS, WYE STREET, ROSS ON WYE, HR9 7BS' - 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 Man of Ross, Wye Street, Ross on Wye, HR9 7BS.

#### 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>2/08/05</b>	28 Days consultation <b>30/08/05</b>	Issue Deadline: <b>1/10/05</b>

The Justices Licence for the premises have been seen and accepted. The advertisement has not been seen at this time.

#### 3. Conversion Licence Application

The premises currently have a Justices On Licence only. 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 has received representations by responsible authorities and from an interested party It 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

6. The following hours have been applied for (*Indoors Only*) in of Live Music, Recorded Music and the Supply of Alcohol (*Both on and off premises*): -

Monday to Wednesday 1100 – 2300

Thursday to Saturday 1100 – 0100

Sunday 1200 – 0030

The premises will be open to the public for a further 30 minutes after these times.

7. **Non Standard hours**

The application applies for '**non-standard**' hours in respect all the licensable activities and requests a further additional hour on Christmas Eve and Boxing Day.

8. **Removal of Conditions**

The applicant has not applied to remove any conditions.

9. **Summary of Representations**

**West Mercia Police**

Have made representation in relation to the application.

They request a last entry time and a condition preventing the removal of open containers from the premises in order to address the licensing objective of the prevention of crime and disorder.

**Environmental Health**

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

In respect of public safety they ask for a number of general conditions as well as conditions in relation to overcrowding, ventilation & heating, lighting, removal of open containers and electrical, fire and gas safety.

In respect of public nuisance they request three conditions relating to noise and vibration.

They also request five conditions to address the protection of children from harm.

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 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.

##### 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

#### **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 relation to 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.

13. **Background Papers**

- Public Representation Form
- Police Comments
- 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.**

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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....

**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.