

APPLICATION FOR VARIATION OF PREMISES LICENCE IN RESPECT OF 'THE RIVERSIDE INN, 20 WYE STREET, ROSS-O-WYE, HR9 7BT' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Ross-on-Wye

1. Purpose

To consider an application for variation of the premises licence in respect of The Riverside Inn, 20 Wye Street, Ross-on-Wye, HR9 7BT

2. Background Information

Applicant	Jeffrey YOUNG		
Solicitor	KEITH EVANS & CO, 14 Clytha Park Road, Newport South Wales, NP20 4PB		
Type of application: Variation	Date received: 04/08/05	28 Days consultation 01/09/05	Issue Deadline: 04/10/05

The Justices Licence has been seen and accepted. The advertisement for the premises has also been seen and accepted.

3. Conversion Licence Application

The premises currently holds a Justices On Licence.

Licensable activity	Hours	
Supply of Alcohol	Mon to Sat	11:00 to 23:00 hours
	Sunday	12:00 to 22:30 hours

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 interested parties. It is therefore now brought before committee to determine the application.

5. **Summary of Application**

The licensable activities applied for are: -

Live Music*

Recorded Music*

Late Night Refreshment

Supply of Alcohol

(*Not previously licensed)

6. The following hours have been applied for in respect of (*Indoors and Outdoors*) Live Music and Recorded Music,

Monday to Thursday 2000 – 2300 hours

Friday to Sunday 2000 – 0100 hours

7. The following hours have been applied for in respect of (*Indoors only*)

Late Night Refreshment

Monday to Thursday 2300 – 2400 hours

Friday and Saturday 2300 – 0400 hours

Sunday 2300 – 0100 hours

8. The following hours have been applied for in respect of (*Indoors and Outdoors*)

The Supply of Alcohol

Sunday to Thursday 1000 – 0200 hours

Friday and Saturday 1000 – 0400 hours

9. In respect of hours premises open to the public are:-

Sunday to Thursday 0900 – 0300 hours

Friday and Saturday 0900 – 0500 hours

10. **Seasonal Variations**

The following seasonal variation has been applied for in respect of Live Music:-

New Year's Eve 1000 until 1000 hours New Year's Day

Christmas Eve 1000 – 0100 hours

The following seasonal variation has been applied for in respect of Recorded Music

New Year's Eve 1000 – 0300 hours

Christmas Eve 2000 – 0100 hours

The following seasonal variation has been applied for in respect of the Supply Alcohol

New Year's Eve 1000 until 1000 hours New Year's Day

Christmas Eve 1000 - 0200 hours

11. **Non Standard hours**

There is no application for the inclusion of non-standard times

12. Conditions requested to be removed

The embedded restrictions in the Licensing Act 1964 should be removed.

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

West Mercia Police have made representations in respect of the application. They request a total of eleven conditions be attached to the licence in order to meet the licensing objective of prevention of crime and disorder.

The suggested conditions can be found within the background papers.

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 conditions a total of twelve conditions. Most of these address the issue of noise and vibration. They also request a condition to address refuse and litter.

In respect of public safety they ask for some general conditions as well as conditions to address Overcrowding, Ventilation & Heating, First Aid, Lighting, the Electrical & Gas Installation and Fire Safety and one further conditions regarding the removal of open containers.

No conditions have been agreed at the time of this report.

The suggested conditions can be found within the background papers.

Fire Authority

There has been no representation from the Fire Authority

Interested Parties

The Local Authority has received 1 letter of representation in respect of the application from a local resident.

The concerns primarily relate to: -

- Public Safety
- Prevention of Public Nuisance

A copy of this is included within the background papers.

14. Issues for Clarification

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

Applicant – Jeffrey YOUNG

Has been requested to provide clarification in respect of matters relating to the application as follows: -

Seasonal Variations

It is noted from the application that it is stated under seasonal variations within the 'hours premises are open to the public' that the opening hours New Years Eve will be from 0900 to 0900 New Years Day. Yet in respect of Live/Recorded Music and the Supply of Alcohol it is stated 'New Years Eve will be from 1000 to 1000 New Years Day. Clarification is sort as to how these hours will operate when the premises will be closed to the public between 0900 hours to 1000 hours New Years Day.

Application Form

Confirmation and signature will be required (before committee) that the application form is a genuine document as the copy we have is only a photocopy.

15. 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.

16. 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
- Police Comments
- Environmental Health & Trading Standards Comments
- Application Form
- Location Plan

Background papers are available for inspection in the Council Chamber, 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....

LACORS Guidance

The following guidance was issued by LACORS on 14th June 2005: -
'providing facilities for the public to dance is a licensable activity in terms of providing 'entertainment facilities' (Licensing Act 2003 Schedule 1 Paragraph 3(1) & 3(2)). **Therefore, the area where public dancing is to take place needs to be shown on the plan.** The precise location of the dance floor is unlikely to be necessary to be shown though, as long as the relevant room/part of the building is clearly marked.

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.