

APPLICATION FOR VARIATION OF PREMISES LICENCE IN RESPECT OF 'JACQUELINES NITE SPOT & JD'S BAR, 24 BROAD STREET, ROSS ON WYE. HR9 7ED' - 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 'Jacquelines Nite Spot & JD's Bar, 24 Broad Street, Ross on Wye. HR9 7ED'.

2. Background Information

Applicant	Charmaine Nicola DANTER		
Solicitor	N/A		
Type of application: Variation	Date received: 21/10/05	28 Days consultation 18/11/05	Issue Deadline: 20/12/05

The advertisement for the premises has not been seen.

3. Current Premises Licence

The current premises licence allows the following: -

Jacquelines Nite Spot		
Licensable activity	Days	Hours
Live Music, Recorded Music and Provision of facilities for dancing. Supply of alcohol subject to the provision of the above activities and also substantial refreshment and where the supply of alcohol is ancillary to this.	Monday to Thursday	1100 to 0100
	Friday & Saturdays	1100 to 0200
	Bank Holiday Sunday (not Easter)	1100 to 0200
	Sundays	1900 to 0330
	Good Friday	1200 to 0200
	Christmas Day	1200 to 1500 & 1900 to 2230

JD's Bar		
Licensable activity	Days	Hours
Supply of alcohol	Monday to Saturday Sundays Good Friday Christmas Day New Year's Eve from end of permitted hours to start of permitted hours on following day	1100 to 2300 1200 to 2230 1200 to 2300 1200 to 1500 & 19:00 to 22:30
Supply of alcohol subject to the provision of substantial refreshment and where the supply of alcohol is ancillary to this.	Monday to Saturdays Sundays & Christmas Day Good Friday New Year's Eve from end of permitted hours to start of permitted hours on following day	1100 to 0000 1100 to 2330 1200 to 0000
Live Music, Recorded Music and Provision of facilities for dancing.	Monday to Thursday Friday & Saturday Sunday & Easter Sunday Bank Holiday Sundays Christmas Eve	1100 – 0100 1100 – 0200 1200 – 0030 1200 – 0200 1100 – 0100

4. **Variation Licence Application**

The application for a variation has received representations from 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: -

Indoor Sporting Events*

Live Music

Recorded Music

Performance of dance*

Anything similar to Live/Recorded Music/Performance of Dance*

Provision of facilities for making music*

Provision of facilities for dancing

Supply of Alcohol

(*Not previously licensed)

6. The following hours have been applied for indoors only in respect of all of the above activities: -

Monday to Wednesday 1100 – 0200 hours

Thursday to Saturday 1100 – 0300 hours

Sunday 1100 – 0100 hours

The premises to close 30 minutes after these times.

7. Non Standard Timings

The application applies for non-standard timings on Christmas Eve, Boxing Day and New Years Day until 0300 hours in respect of all the licensable activities except indoor sporting events..

8. Conditions requested to be removed

The application requests a change of last entry time from 2330 hours to 0000 hours.

9. Summary of Representations

A copy of the suggested conditions and the representation received can be found within the background papers.

West Mercia Police

Have made representation in respect of the application. They have requested a total of twelve conditions to be attached to the licence to address the prevention of crime and disorder objective.

Environmental Health

Representation has been received from Environmental Health, who object to the grant of the application.

Fire Authority

The Fire Authority also made representation. Their concerns have now been addressed and the representation withdrawn.

Interested Parties

The Local Authority has received 18 letters of representation in respect of the application from a local resident.

The concern relates to: -

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of children from Harm

10. 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.

11. 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.

12. **Background Papers**

- Public Representation
- Police Representation
- Environmental Health & Trading Standards Comments
- Application Form
- Location Plan

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