



Council name	<b>COTSWOLD DISTRICT COUNCIL</b>
Name and date of Committee	<b>LICENSING SUB-COMMITTEE – 1<sup>st</sup> November 2023</b>
Subject	<b>Application to Vary a Premises Licence</b>
Wards affected	Ermin
Accountable member	Planning and Licensing Committee
Accountable officer	Kevin Dunford, Licensing Officer Email: <a href="mailto:ers@cotswold.gov.uk">ers@cotswold.gov.uk</a>
Report author	Kevin Dunford, Licensing Officer Email: <a href="mailto:ers@cotswold.gov.uk">ers@cotswold.gov.uk</a>
Summary/Purpose	To determine an application to Vary a Premises Licence made by Jolly Nice Limited at Jolly Nice Café, White Horse Filling Station.
Annexes	<b>Annex A</b> – Copy of the Application. <b>Annex B</b> – Plan of the site and location. <b>Annex C</b> – Copy of representations.
Recommendation(s)	That the Licensing Sub-Committee is asked, in light of the representations received, to consider the application and determine whether to:- <ul style="list-style-type: none"><li>• grant the application as requested.</li><li>• grant the application subject to such conditions that are necessary to promote the licensing objectives.</li><li>• refuse the application in whole or in part where it is necessary in order to promote the licensing objectives.</li></ul>
Corporate priorities	<ul style="list-style-type: none"><li>• Deliver the highest standard of service</li></ul>
Key Decision	NO
Exempt	NO
Consultees/ Consultation	A 28 day consultation has been undertaken with all Responsible Authorities, Ward Member, Parish Council and advertised in accordance with the Licensing Act 2003.



## 1. BACKGROUND

- 1.1 The Licensing Act 2003 (“the Act”) allows Applicants to apply for new Premises Licences, Premises Licence variations, Club Premises Certificates and Personal Licences. This Application is for a Premises Licence Variation.
- 1.2 The Application was received on 7<sup>th</sup> September 2023. The Licensing Authority is satisfied that the Application was duly made, the correct notification process was followed, and the Application was appropriately advertised. It is noted that the applicant stated the 7<sup>th</sup> October 2023 as the close of consultation date on the site notice and newspaper advert meaning the consultation ran for 2 additional days.
- 1.3 The Application seeks a Premises Licence Variation to the following licensable activities and times:
  - Supply by Retail of Alcohol Every day 08:00 – 22:00  
On and Off premises

The licensable activities and times are currently:

- Supply by Retail of Alcohol Monday to Saturday 08:00 – 20:00  
On and Off premises
- 1.4 A copy of the Application is attached at **Annex A**.

## 2. SITE DESCRIPTION

- 2.1 A copy of the site plan and location are attached at **Annex B**.

## 3. REPRESENTATIONS

### 3.1 Responsible Authorities under the Licensing Act 2003

No representations have been received from Responsible Authorities under the Licensing Act 2003

### 3.2 Parish Council and Residents

The Parish Council have made a representation which has been attached in **Annex C**. The Parish Council also provide documents in support of the representation, but they have not been include as they related to Planning applications, decisions and the Landscape officer report which cannot be taken into consideration under the Licensing Act 2003.



There have been 11 resident representations received in relation to this application. Copies of these representations are attached in **Annex C**.

**3.3** The concerns raised in the objections are as follows:

- Traffic, including road safety.
- Parking
- Planning permissions.
- Noise emanating from functions.
- Littering
- Toilet Facilities
- Area of Outstanding Natural Beauty and disturbance to local wildlife.

The Licensing Authority is unable to accept these concerns due to the following reasons.

Traffic, Parking, Toilet Facilities and Area of Natural Beauty

These concerns cannot be taken into consideration under the Licensing Act 2003 and would be dealt with under Planning Law. Planning and Licensing are two separate jurisdictions, and it is up to the business operator to ensure that they adhere to both and have necessary requirements in place.

Noise

As there are no music activities on this application, we are unable to take these concerns into consideration. If residents experience noise nuisance or nuisance from the live/recorded music provided at the site then these should be logged and reported to the Council's Operations team so that they can investigate this further. Residents can apply for a review of the Premises Licence if a regular nuisance occurs.

The Council's Pollution specialist did not raise any concerns with this application.

**4. NATIONAL GUIDANCE**



**4.1** The Secretary of State's Guidance (referred to as 'Section 182 Guidance') requires Licensing Authorities, following receipt of relevant representations, to make judgements about what constitutes public nuisance and what is necessary, in terms of conditions attached to a specific Premises Licence, to prevent it.

**4.2** Where the Act provides for mandatory conditions to be included in a Premises Licence, it is the duty of the Licensing Authority issuing the Licence to include those conditions in the Licence.

## **5. FINANCIAL IMPLICATIONS**

**5.1** There are no financial implications arising directly from the consideration of this application. However, any appeal to the Magistrates' Court against the refusal of the Application or against the imposition of Conditions could result in the Council having to bear the legal costs of defending its decision.

## **6. LEGAL IMPLICATIONS**

**6.1** There is a right of appeal to the Magistrates' Court within 21 days of the Council's decision should the Council refuse the Application or against the conditions imposed on the Licence.

## **7. BACKGROUND DOCUMENTS**

**7.1** Cotswold District Council's Statement of Licensing Policy – 2021

**7.2** Home Office S.182 Statutory Guidance published April 2018.