

BABERGH DISTRICT COUNCIL

FROM: Head of Legal and Administrative Services

REPORT NUMBER **E39**

LICENSING SUB-COMMITTEE

DATE OF MEETING: 16 June 2005

LICENSING ACT 2003 – HEARING REPORT

1. SUMMARY

To determine an application under the 2003 Licensing Act made by:

Punch Taverns PLC

in respect of:

The White Horse, London Road, Capel St. Mary, IPSWICH IP9 2JR

The premises is a public house with one lounge bar, dining room, one public bar and one snug bar. To the rear of the building there are car parking facilities, and a patio leading to a beer garden and children's play area. The public house has two AWP gaming machines and one cigarette machine situated on the premises.

The hearing is to determine the variation element of this application only. The conversion element of the application (Part A of the form) is not subject to any hearing or consideration by the sub-committee as the Police have made no objection to the conversion during the statutory period. All existing conditions and restrictions under the Licensing Act 1964, and other enactments specified by the Secretary of State, therefore carry across with the conversion automatically as conditions on the new premises licence, unless the variation seeks to amend or remove these.

2. RECOMMENDATIONS

2.1 The sub-committee must, having regard to the representations made, take such of the steps below (if any) as it considers necessary for the promotion of the licensing objectives:

- To grant the licence subject to conditions which are consistent with the operating schedule submitted by the applicant;
- To exclude from the scope of the licence any of the licensable activities that have been applied for;
- To refuse to specify a person in the licence as the premises supervisor;
- To reject the application.

The sub-committee is able to determine this application.

3. THIS APPLICATION

3.1 This application is made by Punch Taverns PLC in respect of the White Horse, London Road, Capel St. Mary, IPSWICH IP9 2JR.

- 3.2 The application is to simultaneously vary a conversion licence (justices' liquor licence only) and seeks to extend hours during which the licensable activities of 'recorded amplified music' and 'sale of alcohol' are carried on. The application also seeks to incorporate provision of 'live music', by two live performers with amplification, and match the hours of this activity with the other two licensable activities (note: it has been verbally confirmed by the applicant's solicitor that although the application indicates that on Sundays live music will carry on until the premises closes to the public at 23:00hrs - this is a typographical error and should read 22:30hrs).

The application seeks to extend hours during which the premises is open to the public (30 minutes after the end of licensable activities) and proposes to extend hours further for bank holiday weekends, Easter weekends and Christmas Eve / Boxing Day.

The hours proposed for licensable activities, are to extend existing 'permitted hours' (being 10:00hrs until 23:00hrs weekdays and 12:00noon until 22:30hrs Sundays):

- for an extra hour on Thursdays, with the premises being open to the public for 30 minutes beyond this (which will allow 'drinking-up time'). Therefore on Thursdays the applicant proposes that the premises will cease licensable activities at 00:00 midnight and close to the public at 00:30hrs.
- for an extra two hours on Fridays and Saturdays. Therefore ceasing licensable activities at 01:00hrs and closing to the public at 01:30hrs.
- open to the public for an extra 30 minutes on Sundays until 23:00hrs, and cease licensable activities (except live music?) at 22:30hrs.
- for a further additional hour to the above proposals for Fridays/Saturdays/Sundays and Mondays for May, Spring/Whitsun/and August bank holidays, with 30 minutes for drinking-up time. Therefore on such occasions on a Friday and Saturday the premises would cease licensable activities at 02:00hrs and close to the public at 02:30hrs, on Sundays during a bank holiday cease activities at 23:30hrs and close to the public at 00:00 midnight, and on Mondays cease activities at 00:00 midnight and close to the public at 00:30hrs.
- for Easter bank holiday weekends as above for other bank holidays, but in addition include Thursday for a further additional hour, with 30 minutes 'drinking-up time'. Therefore ceasing activities at 01:00hrs and closing at 01:30hrs.
- Also, as above for bank holidays, for Christmas Eve and Boxing Day.
- Seeks to retain existing New Years Eve / New Years Day general exemption. This carries across as a 'grandfather right'.

The applicant has proposed various steps that they intend to take to promote the four licensing objectives, detailed in section Q of the application form. The measures proposed include:

- external floodlighting
- installation of CCTV
- a period of 30 minutes between the end of licensable activities and closure of the premises to the public (to allow appropriate dispersal and 'drinking-up time'),

- sound level checking from outside of the building
- emergency lighting over exits and emergency signage
- that children must be supervised at all times by an adult and ensuring exits and escape routes are unimpeded.

Some of the steps proposed may require further clarification by the applicant at the hearing.

Please refer to the copy of the complete application attached as Appendix 1.

- 3.3 The application is attached as Appendix 1. The advertisement required under the Act was published on 21 April 2005 and 13 May 2005, and also displayed on the premises for 28 days. The following consultees, as Responsible Authorities, have received notice of the application.

RESPONSIBLE AUTHORITY	RESPONSE
1. Chief Officer of Police	YES - 24.05.2005
2. Local Fire Authority	See * below
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	
4. Environmental Health	YES - 05.05.2005
5. Local Planning Authority	YES - 20.05.2005
6. Area Child Protection Committee	
7. Any other Licensing Authority	
8. Trading Standards	
9. Environmental Agency/British Waterways Boards/Maritime and Coastguard Agency	

* The Local Fire Authority has contacted the applicant to point out deficiencies under the Fire Precautions (Workplace) Regulations 1997 (as amended). For clarity the comments of the Fire Authority are included in Appendix 2 but do not constitute a formal representation under the Licensing Act 2003.

- 3.4 A representation has also been received during the statutory period from the following interested parties:

- Barry and Janet Lawrence, resident of London Road, Capel St.Mary

A copy of the representation is attached as Appendix 2.

4. GUIDANCE AND POLICY CONSIDERATIONS

- 4.1 The sub-committee is referred to section 6 – ‘Hours of Trading’ and section 7 – ‘Conditions Attached to Premises Licences and Club Premises Certificates’, and Annexes D to H, of Central Government Guidance in respect of this application.
- 4.2 The sub-committee is referred to sections 1, 6, 7, 9, 10 and 14 of the Council’s Statement of Licensing Policy in respect of this application.

5. THE ISSUES

5.1 The Licensing Act 2003 introduces a new licensing regime. The four underlying objectives of the regime are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

These are the only grounds upon which an application can be refused, or which conditions, if necessary, may be attached to a licence.

5.2 Members will note that the main issues here are:

- Balancing the interests of owners, employees, customers and neighbours of licensable premises.
- The steps proposed by the applicant in their operating schedule to promote the four licensing objectives.

6. PROCEDURE

6.1 A copy of the 'Procedure for Hearing of Application under Licensing Act 2003 where a Representation/Objection is received' is attached to the Agenda.

7. APPENDICES REFERRED TO

- (a) Appendix 1 – Part B – Application together with premises plan
- (b) Appendix 2 – Representations
- (c) Appendix 3 – Site Plan showing location of Interested Party objectors.

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