

BABERGH DISTRICT COUNCIL

FROM: Head of Legal and Administrative Services REPORT NUMBER **E38**

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 Case is Altered, Capel Road, Bentley, IPSWICH IP9 2DW

The premises is a public house with one bar (including eating area), with a car park to the side / rear (accommodating 30 plus parking spaces), beer garden and patio to the front and side. The premises is also attached to a self-contained Post Office to which the public has no access from inside of the pub. The public house has one cigarette machine and no gaming machines 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 Case is Altered, Capel Road, Bentley, IPSWICH IP9 2DW.
- 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 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 holiday period.

The hours proposed by the variation application 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 Mondays, Tuesdays, Wednesdays and Thursdays, with the premises being open to the public for 30 minutes beyond this (which will allow 'drinking-up time'). Therefore on these days 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.
- for an extra hour on Sundays (therefore carry on licensable activities until 23:30hrs and close to the public at 00:00 midnight. The applicant also proposes to open an hour earlier on Sundays (11:00hrs instead of 12:00 midday).
- 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 00:30hrs and close to the public at 01:00hrs, and on Mondays cease activities at 01:00 and close to the public at 01:30hrs.
- for Easter bank holiday weekends as above for other bank holidays, but in addition include Thursday for a further hour extension, with 30 minutes 'drinking-up time', ceasing activities at 01:00 and close to the public at 01:30hrs.
- Also, as above, for Christmas Eve and Boxing Day - an additional further hour.
- 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 in car park, beer garden and patio
- 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')

- emergency lighting
- ensuring that 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 advertisements required under the Act were published on 21 April 2005 and 13 May 2005, and 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	
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	
4. Environmental Health	YES - 11.05.2005
5. Local Planning Authority	YES - 23.05.2005
6. Area Child Protection Committee	
7. Any other Licensing Authority	
8. Trading Standards	
9. Environmental Agency/British Waterways Boards/Maritime and Coastguard Agency	

- 3.4 Representations have also been received during the statutory period from the following interested parties:

- Mr and Mrs Hines, residents of Bentley
- J W and S McCluskey, residents of Bentley
- Bentley Parish Council
- Pamela Lovell, resident of Bentley
- David Ingham, resident of Bentley and also Parish Councillor
- Mrs J E Ingham, resident of Bentley at same address as David Ingham

A copy of all representations made are 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 also 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 introduced 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 may be refused, or conditions 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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