

BABERGH DISTRICT COUNCIL

FROM: Head of Legal and Administrative Services

REPORT NUMBER **E40**

TO: LICENSING SUB-COMMITTEE

DATE OF MEETING 24 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 Swan, The Street, Holbrook, IPSWICH IP9 2PZ (BDC ref: 000052)

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 Swan, The Street, Holbrook, IPSWICH IP9 2PZ (BDC application ref: 000052).

The premises is a traditional village public house with one bar and a small beer garden.

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, and include provision of 'live music' by no more than two performers with amplified music for the same times as the other activities. 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. This public house has two AWP gaming machines plus one cigarette machine on the premises.

This application seeks to extend the existing 'permitted hours' hours during which licensable activities take place at the premises. Existing permitted hours are:

- 10:00hrs until 23:00hrs Mondays to Saturdays
- 12:00noon until 22:30hrs Sundays
- Good Friday 12:00noon until 22:30hrs
- Christmas Day 12:00noon until 15:00hrs and 19:00hrs until 22:30hrs
- New Years Eve (not Sunday) 10:00hrs until 23:00hrs
- New Years Eve (Sunday) 12:00noon until 22:30hrs

The application seeks to:

- extend licensable activities for an extra hour on Mondays to Saturdays (inclusive), 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.
- retain existing permitted hours for licensable activities on Sundays (12:00 noon until 22:30hrs) but close to the public at 23:00hrs to allow 30 minutes 'drinking-up time'.
- seek an extra two hours to existing 'permitted hours' for Fridays/Saturdays/Sundays and Mondays for May, Spring/Whitsun/and August bank holidays, with the premises closing to the public 30 minutes later on all occasions. Therefore on such occasions (other than Sundays) the premises would cease licensable activities at 01:00hrs and close to the public at 01:30hrs, whilst on Sundays during a bank holiday cease activities at 00:30hrs and close to the public at 01:00hrs.
- for Easter bank holiday weekends as above for other bank holidays, but in addition include Thursday for a two hour extension to existing permitted hours, with 30 minutes 'drinking-up time'.
- Also as above for Christmas Eve and Boxing Day - an additional two hours to existing permitted hours for licensable activities, closing to the public 30 minutes thereafter.

Under "grandfather rights" during transition the applicant will automatically get extended opening hours for New Year's Eve following the making of the Regulatory Reform (Special Occasion Licensing) Order 2002. This allows the premises to stay open from the end of permitted hours on New Years Eve until the end of permitted hours on New Years Day.

The applicants have 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:

- a) that customers departure be checked to ensure that bottles and glasses are not removed from the premises
- b) illuminated signage
- c) that lighting be installed to the rear of the pub, the car park and beer garden
- d) that escape routes are unimpeded and unobstructed
- e) that no children will be allowed on the premises after 9pm

Some of the steps proposed may require further clarification by the applicant at the hearing, or could duplicate other legislation or already be covered by offences in the Licensing Act 2003.

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

3.2 The application is attached as Appendix 1. The advertisements required under the Act were published on 06 May 2005 and displayed on the premises for 28 days. The applicant has confirmed that 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	* Comments only (see Appendix 2)
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	Yes - 18.05.2005
4. Environmental Health	Yes - 18.05.2005
5. Local Planning Authority	
6. Area Child Protection Committee	
7. Any other Licensing Authority	
8. Trading Standards	
9. Environmental Agency/British Waterways Boards/Maritime and Coastguard Agency	

A copy of any representations are attached as Appendix 2.

* Fire Service observations to applicant are reproduced for information in Appendix 2 but do NOT form a representation under the Licensing Act 2003.

3.3 No representations have been received during the statutory period from local residents or local businesses ('interested parties').

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 if deemed necessary, 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 applicants in their operating schedule to promote the four licensing objectives.

6. PROCEDURE TO BE FOLLOWED AT HEARING

- 6.1 A copy of the ‘Procedure for Hearing of Application under the 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 premises.

PAULINE McBRIDE
Head of Legal and Administrative Services

CONTACT: Lee Carvell

DIRECT LINE: 01473 825719