

BABERGH DISTRICT COUNCIL

FROM: Head of Legal and Administrative Services

REPORT NUMBER **E63**

TO: LICENSING SUB-COMMITTEE

DATE OF MEETING 22 July 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:

Anchor, Upper Street, Stratford St.Mary COLCHESTER CO7 6LW

The premises is a public house with one main lounge bar and one separate dining area. There is an outside patio to the front and beer garden to the rear with a children's play area. The public house has one cigarette machine situated on the premises and two AWP gaming machines.

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

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.

Members of the sub-committee should note that they may, where it is deemed necessary and proportionate for the promotion of the licensing objectives, alter, omit or add new conditions within the applicants operating schedule.

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 Anchor, Upper Street, Stratford St.Mary, COLCHESTER CO7 6LW. The premises supervisor named in the premises licence application is Mr Francis Shinn (the existing justices' licence holder).

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' (indoors), by two live performers with amplification, and match the hours of this activity with the other two licensable activities.

The application seeks to extend hours during which the premises is open to the public (30 minutes after the end of licensable activities), on all days of the week, 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, Fridays, Saturdays and Sundays with the premises being open to the public for 30 minutes beyond this (which will allow 'drinking-up time'). Therefore on Thursdays to Saturdays the applicant proposes that the premises will cease licensable activities at 00:00 midnight and close to the public at 00:30hrs, whilst on Sundays cease activities at 23:30hrs and close to the public at 00:00 midnight.
- 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 01:00hrs and close to the public at 01:30hrs, 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 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:

- sodium floodlighting in outside garden areas
- ensuring that exits and escape routes are left unobstructed
- infra red automatic lighting and emergency lighting
- 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’),
- air conditioning
- managed customer departure
- outside beer garden and play area secure and enclosed

Some of the steps proposed may require further clarification by the applicant at the hearing, and some may be purely observations or duplicate other responsibilities on the licence holder under other legislation.

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

- 3.2 The application is attached as Appendix 1. The solicitors acting for the applicant have confirmed that the advertisement required under the Act was published 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 - 23.06.2005
2. Local Fire Authority	
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	YES - 01.06.2005
4. Environmental Health	YES - 01.06.2005
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.

- 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 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 deemed necessary and proportionate, 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 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

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

8. BACKGROUND PAPERS REFERRED TO

None

PAULINE McBRIDE
Head of Legal and Administrative Services

CONTACT: Lee Carvell

DIRECT LINE: 01473 825719