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Our reference:
Your reference:
Date: 19 December 2011

To all Members of the Alcohol & Entertainments Licensing Sub Committee

Dear Councillor

A meeting of the Alcohol & Entertainments Licensing Sub Committee will be held on Wednesday 4 January 2012 at 2.00 pm in the Council Chamber, Civic Centre, Pavilion Road, West Bridgford to consider the following items of business.

Yours sincerely

Head of Corporate Services

AGENDA

1. Appointment of Chairman
2. Procedure

A copy of the procedure notes is attached (pages 1 – 5).

3. Hearing

Keyworth Tavern, Wolds Drive, Keyworth, Nottingham

Application to vary Premises Licence

- a) Report of the Senior Licensing Officer is attached (pages 6 - 12).
- b) Application is attached (pages 13 - 39).
- c) Objections are attached (pages 40 - 81).
- d) Notice of Hearing is attached (pages 82 - 86).

Membership

Councillors A M Dickinson, E A Plant and J A Stockwood

Meeting Room Guidance

Fire Alarm - Evacuation - in the event of an alarm sounding you should evacuate the building using the nearest fire exit, normally through the Council Chamber. You should assemble in the Nottingham Forest car park adjacent to the main gates.

Toilets - Facilities, including those for the disabled, are located opposite Committee Room 2.

Mobile Phones – For the benefit of other users please ensure that your mobile phone is switched off whilst you are in the meeting.

Microphones - When you are invited to speak please press the button on your microphone, a red light will appear on the stem. Please ensure that you switch this off after you have spoken.

RUSHCLIFFE BOROUGH COUNCIL

ALCOHOL AND ENTERTAINMENTS LICENSING SUB-COMMITTEE

Procedure for hearing of application to vary premises licence (Licensing Act 2003, ss. 34 and 35)

Definitions:

“the Act” means the Licensing Act 2003

“interested party” has the meaning given in section 13(3) of the Act

“the licensing objectives” are –

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance;
- (d) the protection of children from harm

“party to the hearing” means those persons to whom notice of hearing is to be given in accordance with regulation 6 of the Regulations

“the Regulations” means the Licensing Act 2003 (Hearings) Regulations 2005

“relevant representations” has the meaning given in section 35(5) of the Act

“responsible authority” has the meaning given in section 13(4) of the Act

General:

The hearing will normally take place in public.

The hearing will be by way of a discussion led by the Chairman.

Cross-examination will not be permitted unless the sub-committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require.

The sub-committee will determine the application by considering the relevant representations received.

Relevant representations in this case means representations which -

- are about the likely effect of the grant of the application on the promotion of the licensing objectives;
- are made by responsible authorities or interested parties within the prescribed time periods;
- have not been withdrawn; and
- in the case of interested parties, are not representations which are, in the opinion of the licensing authority, frivolous or vexatious.

Introductions:

1. The Chairman (or Legal Adviser to the sub-committee) will explain the reason for the hearing.
2. The Chairman (or Legal Adviser to the sub-committee) will identify the parties to the hearing, their representatives/persons assisting them, any witnesses or other persons who wish to speak/appear.
3. The sub-committee will decide whether permission to appear should be given to any person present who is not a party to the hearing.
4. The Chairman (or Legal Adviser to the sub-committee) will enquire whether the parties have received, read and understand this procedure note and will answer any questions and give further guidance on the procedure to be followed as appropriate.
5. The Chairman (or Legal Adviser to the sub-committee) will check that the parties have received all relevant documentation.
6. The Chairman (or Legal Adviser to the sub-committee) will enquire of the parties (and those to whom the sub-committee has given permission to appear) how long they anticipate they will be in:-
 - (a) giving further information in support of their application, representations or notice in response to any notice given by the licensing authority under regulation 7(d) of the Regulations
 - (b) questioning another party
 - (c) addressing the sub-committee
7. The sub-committee will seek to agree with the parties a maximum period of time for the parties to exercise those rights.

Procedure:

Licensing Officer

8. The **Licensing Officer** will outline the relevant details of the application and relevant representations received in respect of it and give such advice and assistance in relation to the authority's licensing policy, government guidance and the law as appropriate.

The Applicant's Case

9. The Chairman will then ask **the applicant** to
 - outline their application
 - give further information in response to any request for clarification on a point from the authority
 - address the relevant representations
 - call any witnesses/give evidence, as permitted by sub-committee

10. **After each speaker or witness** the Chairman will:-
- enquire whether any of the **responsible authorities** have any **questions** for that speaker or witness and may then permit such questions as the sub-committee deem appropriate to be put
 - enquire whether any of the **interested parties** have any **questions** for that speaker or witness and may then permit such questions as the sub-committee deem appropriate to be put
 - enquire whether any member of the **sub-committee** or the Legal Adviser have any **questions** for that speaker or witness and may then permit such questions as the sub-committee deem appropriate to be put
11. The **applicant** will then be permitted to clear up any points arising from the questioning.

The Responsible Authorities

12. The Chairman will then ask each of **the responsible authorities** in turn to
- outline their relevant representation
 - give further information in response to any request for clarification on a point from the authority
 - address the relevant part of the application or notice
 - call any witnesses/give evidence, as permitted by sub-committee
13. **After each speaker or witness** the Chairman will:-
- enquire whether any of the **other responsible authorities** appearing have any **questions** for that speaker or witness and may then permit such questions as the sub-committee deem appropriate to be put
 - enquire whether any of the **interested parties** have any **questions** for that speaker or witness and may then permit such questions as the sub-committee deem appropriate to be put
 - enquire whether the **applicant** have any **questions** for that speaker or witness and may then permit such questions as the sub-committee deem appropriate to be put
 - enquire whether any member of the **sub-committee** or the Legal Adviser have any **questions** for that speaker or witness and may then permit such questions as the sub-committee deem appropriate to be put
14. The officer for the **relevant authority** will then be permitted to clear up any points arising from the questioning.

Interested Parties

15. The Chairman will then ask each of **the interest parties** in turn to
- outline their relevant representation
 - give further information in response to any request for clarification on a point from the authority
 - address the relevant part of the application or notice
 - call any witnesses/give evidence, as permitted by sub-committee
16. **After each speaker or witness** the Chairman will:-
- enquire whether any of the **other responsible authorities** appearing have any **questions** for that speaker or witness and may then permit such questions as the sub-committee deem appropriate to be put
 - enquire whether any of the **interested parties** have any **questions** for that speaker or witness and may then permit such questions as the sub-committee deem appropriate to be put
 - enquire whether the **applicant** have any **questions** for that speaker or witness and may then permit such questions as the sub-committee deem appropriate to be put
 - enquire whether any member of the **sub-committee** or the Legal Adviser have any **questions** for that speaker or witness and may then permit such questions as the sub-committee deem appropriate to be put
17. The **interested party** will then be permitted to clear up any points arising from the questioning.

Closing Statements

18. The Chairman will invite closing statements from the parties in the following order:-
- interested parties;
 - responsible authorities;
 - applicant

Exclusion of Public

19. The sub-committee will then normally declare that there is an overriding public interest in excluding the public from their deliberations in determining the application, which outweighs the public interest in that part of the hearing taking place in public.

Decision

20. The sub-committee will then retire to consider its decision.
21. The sub-committee will then return to give its decision in public. The Chairman will inform those present that the reasons for the decision will be transmitted in writing to the parties in due course.

NB - The Chairman may vary the procedure as considered appropriate to promote the discussion.



**ALCOHOL & ENTERTAINMENT LICENSING SUB
COMMITTEE**

4 JANUARY 2012

**APPLICATION TO VARY THE PREMISES LICENCE
AT THE KEYWORTH TAVERN WOLDS DRIVE
KEYWORTH NOTTINGHAM**

3

REPORT OF THE SENIOR LICENSING OFFICER

THE APPLICATION

Applicant

Punch Taverns PLC

Premises

Keyworth Tavern, Wolds Drive, Keyworth, Nottingham

History

The premise to which the application relates has been licensed as a public house for many years. During the transitional period of the Licensing Act 2003, on 12th August 2005, the licence holder Shirley Haynes (who is the current designated premises supervisor) applied to vary the premises licence at the Keyworth Tavern. The application was to increase the terminal hour for the sale of alcohol from the original magistrate's permissions of Monday to Saturday 1000 to 2300 Sundays 1200 to 2230 to 0100, Monday to Saturdays and 1200 to 0000 on Sundays. Included in the application was the additional permission for regulated entertainment Monday to Saturday 1100 to 2330 and Sundays 1200 to 2330. The hour the premises were to close was the same as that for the sale of alcohol.

A number of objections were received from local residents in regard to the application and a hearing was held on 30th September 2005 before the Alcohol and Entertainments Sub Committee.

Having heard the matter the sub-committee decided that the terminal hour for the sale of alcohol were Monday to Thursday and Sunday 2330, Friday and Saturday 0030. The premises to close 30 minutes after the above times. The hours for regulated entertainment were granted as applied for but six additional conditions were attached to licence to prevent noise nuisance. These can be seen on the current licence which is attached to the hearing papers.

The licence was transferred from Shirley Haynes to Punch Taverns Plc in September 2011.

Application as applied for

This application is for the variation of the current premises Licence under Section 34 of the Licensing Act 2003 for the above premises.

The application shows that live music the facilities for dancing and late night refreshment to be added to the current permissions. The application also includes additional hours for all licensable activities and the removal of conditions 1 and 2 in Annex 3 of the current licence as well as the rewording of condition 3 relating to the closing of doors when entertainment is taking place. The applicant also wishes to remove the old specified hours for Bank Holidays and Christmas Eve which at current are 0030 for 0100 for the premises to close.

Relevant licensable activities

The application indicates that the following activities are applied for with the relevant start times and terminal hours:

Regulated entertainment and supply of alcohol

Monday to Saturday	10:00 – 02:00
Sunday	12:00 – 02:00

Late night refreshment

Monday to Sunday	23:00 – 02:00
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The hours the premises will be open to the public are:

Monday to Saturday	10:00 – 02:30
Sunday	12:00 – 02:30

Non-standard hours:

New Year's Eve from the start of permitted hours until the commencement of hours on New Year's Day.

RELEVANT REPRESENTATIONS:

The following are summaries of the representations made; the full representations are attached to the hearing papers.

Responsible authorities

Nottinghamshire Police: If granted the extended hours will have a negative impact on the licensing objectives and the community.

Environmental Health Service (public nuisance): The removal of conditions and increase in the terminal hour may lead to further complaints and a potential noise nuisance.

Environmental Health Service (public safety): Without additional conditions being attached to the licence there are concerns for public safety.

Interested parties

Mr and Mrs Townsend: Extended hours will result in noise until the early hours and drunk and disorderly behaviour.

M Daft: States current conditions are not adhered to and therefore they will be unable to run an establishment with the extended hours

Miss J Harris: The premises already break its current conditions and incidents will get worse with extended hours.

Mr and Mrs McGrady: Noise from persons leaving the premises in the early hours will create a public nuisance.

Mrs Harris: Extended hours will attract undesirables to the area and noise will be caused at closing time.

Mr and Mrs Meakin: Noise from music will cause a nuisance until 3am.

Mr Ackerman: Extended hours will cause a public nuisance and illegal substances will circulate in the premises.

Mr G Fennimore and Mr B Turvey: Extended hours will exacerbate problems of vandalism.

Mr and Mrs Baines: Current conditions are not being met, and will not be with extended hours resulting in increased noise factors.

Mr and Mrs Atherall: Extension of hours will have an impact on crime and disorder, and nuisance.

Mrs Rolbin: Extended hours will result noise and disturbance as well encouraging petty crime.

Mrs Booth: People leaving in the early hours will disrupt residents and music will be heard outside the premises.

Mrs Taylor: Extended hours would cause public nuisance and anti-social behaviour.

Mr Reed: Noise is already a problem with the premises and disorder and general disturbance will be caused in the early hours.

Mrs Richards: Extended hours will make noise intolerant.

Mr and Mrs Martindale: Recently noise levels from the premises have increased and current conditions not adhered to, with extended hours this will increase.

Mr and Mrs Brandon: Possibility of trouble being caused in the early hours.

Mrs Allton: Music late at night will be a public nuisance and residents disturbed as customers leave.

Mr and Mrs Rowley: Residents will be disturbed by drunken behaviour.

Mr Youngs: Extended hours will increase public nuisance into the early hours

Cllr Abbey: Already problems as people leave the premises which will be exacerbated with extended hours as will noise from the premises.

Cllr Cottee: Noise nuisance will be caused into the early hours and anti-social behaviour will increase.

Cllr D Boote: The extension of hours will cause considerable noise nuisance and lead to an increase in anti-social behaviour.

Cllr S Boote: Noise nuisance and disturbance as people leave up to 3am will be intolerable.

Mr and Mrs Cuthbert: Late hours will cause noise nuisance and disturbance as people leave the premises.

Mrs Harley: Those leaving the premises in the early hours will impact on the area and damage which already occurs in the area will increase.

Mr Harley: Those leaving the premises in the early hours will impact on the area and damage which already occurs in the area will increase.

Nicole Ward: Noise will be a big issue with extended hours

Mr Andreas: Extended hours would create a high probability of a public nuisance on frequent occasions.

Local Policy Considerations

1.1 The Act provides that Rushcliffe Borough Council has a duty to carry out its functions under the Act with a view to promoting the prescribed licensing objectives:

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

Human Rights

The Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights when determining applications.

- Article 1 of the First Protocol - that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
- Article 6 - that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- Article 8 - that everyone has the right to respect for his home and private life.

Consideration of the impact of licensing activities

The characteristics of an area and the impact that the premises may have upon that area are a major fundamental consideration in determining whether a licence should be granted and if so what conditions should be attached to the licence. Conditions to be attached to various authorisations will be focussed on matters that are within the control of individual licensees and others in possession of relevant authorisations. Accordingly these matters will centre on the premises being used for licensable activities and the vicinity of those premises. What amounts to the “vicinity” will be a question of fact to be determined in the light of the individual circumstances of the case. Consideration will primarily be given to the direct impact of the licensed activity on members of the public living, working or engaged in normal activity in the area concerned.

This policy provides information and guidance to licence applicants, objectors and interested parties on the general approach that the Authority will take in terms of licensing. Each application will be considered individually on its own merits, and the Authority in adopting this licensing policy is indicating that wider considerations will be taken into account in making an appropriate determination, where relevant objections have been made.

POLICY 2 (Section 6)

When preparing or considering applications, applicants, interested parties, relevant bodies and the Licensing Authority should, where appropriate, take into account the following matters in assessing both the potential for the licensing objectives to be undermined and the necessity for, and proportionality of, any conditions which may be imposed on any resulting licence, certificate or permission: -

- (i) The nature of the area within which the premises are situated
- (ii) The precise nature, type and frequency of the proposed activities
- (iii) Any measures proposed by the applicant as outlined in the operating schedule.
- (iv) The nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises
- (v) Means of access to and exit from the premises
- (vi) Transport provision in the area and the likely means of public or private transport that will be used by customers either arriving or leaving the premises
- (vii) Parking provision in the area.
- (viii) The potential cumulative impact (not applicable at this time)
- (ix) Other means and resources available to mitigate any impact.
- (x) Such other matters as may be relevant to the application.

REASON: To ensure that all relevant matters are taken into consideration during the application process

National Guidance

1.15 Each application must be considered on its own merits and any conditions attached to licenses and certificates must be tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and

indeed, may be unlawful where they cannot be shown to be necessary for the promotion of the licensing objectives in any individual case.

1.16 The licensing authority should only impose conditions on a premises licence or club premises certificate which are necessary and proportionate for the promotion of the licensing objectives.

10.4 Under the former licensing regimes, the courts have made it clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.

10.11 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It may only impose conditions that are necessary to promote one or more of the four licensing objectives. Such conditions must also be expressed in unequivocal and unambiguous terms to avoid legal dispute.

10.12 It is perfectly possible that in certain cases, because the test is one of necessity, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives.

13.40 With regard to licensing hours, the statement of policy should generally emphasize the consideration which will be given to the individual merits of an application. The Government strongly recommends that statements of policy should recognize that, in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. This can help reduce friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance. (See Rushcliffe Policy 4.3 and 4.4)

13.23 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives, for example on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. “Need” is a matter for planning committees and for the market. (Note Rushcliffe does not have a cumulative impact policy)

13.64 The statement of licensing policy (see Rushcliffe Policy statement 4.2) should indicate that planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.

Observations

The committee is obliged to determine this application with a view to promoting the licensing objectives in the overall interests of the local community, and must give appropriate weight to:

- the representations presented by all the parties;
- the guidance;
- the statement of licensing policy;
- the steps that are necessary to promote the licensing objectives.

Of course the Committee must also have regard to all of the representations made and the evidence it hears.

The Committee must take such of the following steps as it considers necessary for the promotion of the, licensing objectives:

- (a) Grant the application as submitted
- (b) Modify the conditions of the licence, by altering or omitting or adding to them.
- (c) Reject the whole or part of the application.

The Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

Section 35(5)(a) the Licensing Act 2003 “relevant representations” means representations which, are about the likely effect of the grant of the application on the promotion of the licensing objectives.

Other matters

A number of interested parties have indicated that they will be represented at the hearing by the Councillors that have already made representations.

Two representations from interested parties were rejected.

The responsible authorities have been unable to agree any conditions with the applicant at this time.