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**Our reference:**  
**Your reference:**  
**Date:** 14 May 2013

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 Tuesday 21 May 2013 at 2.00 pm in the Council Chamber, Civic Centre, Pavilion Road, West Bridgford to consider the following items of business.

Yours sincerely



Executive Manager Operations and Corporate Governance

### **AGENDA**

1. Appointment of Chairman
2. Procedure

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

3. Hearing

Application to Vary Premises Licence

Keyworth Tavern, Fairway, Keyworth, Nottingham

- a) Report of the Senior Licensing Officer is attached (pages 6 - 11).
- b) Application is attached (pages 12 - 38).
- c) Objections are attached (page 39 - 57).
- d) Notice of Hearing is attached (pages 58 - 62).

### Membership

Councillors B R Buschman, G Davidson and S J Robinson

## Meeting Room Guidance

**Fire Alarm Evacuation:** in the event of an alarm sounding please 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** are located opposite Committee Room 2.

**Mobile Phones:** For the benefit of others 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**

**21 May 2013**

**Application to Vary a Premises Licence Keyworth  
Tavern**

**3**

**Report of the Senior Licensing Officer**

**THE APPLICATION**

**Applicant**

Punch Taverns PLC

**Premises**

Keyworth Tavern, Fairway, Keyworth, Nottingham, NG12 5DW

**History**

The premise to which the application relates has stood on the site for many years. During the transitional phase of the Licensing Act in 2005, the premises applied for extended hours and to add regulated entertainment to the premises licence. This application attracted a number of representations from local residents and a hearing was held. This resulted in the conditions being attached to the current licence. In November of 2011 the licence holder made a further application to extend the terminal hour of the premises. This again attracted a large number of representations by local residents and the application was withdrawn before a hearing was held.

**Application**

The current application is to vary the Premises Licence under Section 34 of the Licensing Act 2003 to increase the hours for the sale of alcohol in the morning only, structural alterations to the premises including a new outside area to both the front and back of the premises and the removal of all six conditions on the current licence. These conditions are as follows:

1. Alcohol shall not be consumed outside at the front of the premises.
2. Alcohol shall not be consumed outside at the rear of the premises after 2200
3. Whenever amplification equipment is in use and whenever regulated entertainment is carried on at the premises the external doors shall be kept shut except for the doors at the main entrance to the premises where the internal doors shall be kept shut.
4. Whenever amplification equipment is in use and whenever regulated entertainment is carried on at the premises all windows shall remain closed.
5. A noise limiter shall be fitted on all amplification equipment used at the premises and shall be set at a level approved by the licensing authority.
6. Prominent clear and legible notices shall be displayed both inside and outside the premises (including within the car park) requesting patrons to respect the needs of local residents and to leave the premises and area quietly.



There is one further condition relating to the CCTV system which will remain unchanged.

A planning application has been submitted and approved in relation to the structural alterations to the premise, these include the creation of an outdoor area to the front of the premises. A number of conditions have been placed on the planning consent including restricting the use of outdoor area between 2200 and 0900 hrs each day.

The operating schedule shows

The premise will be run in line with the existing licence in regard to the four licensing objectives.

Relevant licensable activities

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

Recorded music

Monday to Thursday and Sunday 08.30 – 23.30  
Friday and Saturday 08.30 – 01.00

Supply of alcohol

Monday to Thursday and Sunday 08.30 – 23.00  
Friday and Saturday 08.30 – 00.30

Premises opening hours

Monday to Thursday and Sunday 08.30 – 23.30  
Friday and Saturday 08.30 – 01.00

#### **RELEVANT REPRESENTATIONS:**

The following are summaries of the representations made; the full representations are attached to the hearing papers. All but one of the representations relate to objections to the removal of the six conditions outlined above.

Responsible authorities

None

Residents

Councillors Cottee, Boote, Abbey, Keyworth Parish Council, Judith Harris, Guy Fennimore and Barry Turvey:

All of the above object of the removal of the above conditions stating that public nuisance will be caused.

Jane Baines:

Objects to the removal on the conditions and also questions how the restrictions on the outside area can be enforced.

Glennis Taylor:

States crime and disorder will rise; drunken people will be shouting and urinating all over and drinkers will come from outside the village. Noise will be horrendous.

As a result of these representations a 'without prejudice' meeting was held on the 9 May 2013, whereby the representations submitted were discussed with the applicant, their legal representatives and the potential new tenant of the premises. Also attending the meeting in a professional advisory capacity were the Senior Licensing Officer and representatives from both the police and environmental health service. The applicant indicated that they would consider a number of conditions being placed on the licence to mitigate any fears local residents have in regard to the operation of the premises, these are:

1. Signage will be clearly displayed asking patrons to leave the premises quietly
2. The licence holder will make regular checks of the premises to ensure no noise nuisance is caused to residents.
3. An upgraded CCTV system will be installed at the premises with cameras covering both the front and rear of the premises.

As a result of the meeting all of the above persons who had submitted representations were contacted with the proposed conditions and Councillor Abbey, Guy Fennimore and Barry Turvey, indicated they were happy with the proposals and have withdrawn their representations, Glennis Taylor has indicated she would withdraw given further details of enforcement actions.

### **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.

## **Representations**

Where representations are received the characteristics of an area and the impact that the premises may have upon that area will be a fundamental consideration in determining whether a licence should be granted and if so what conditions should be attached to it. Conditions will be focussed on matters that are within the control of individual licensees and others in possession of relevant authorisations. These matters will centre on the premises being used for licensable activities and the vicinity of those premises. 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 other persons 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**

1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall”, and “will”, is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives
- must be precise and enforceable
- must be unambiguous and clear in what they intend to achieve
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation

- must be tailored to the individual type, location and characteristics of the premises and events concerned.
- should not be standardized and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case:
- should not replicate offences set out in the 2003 Act or other legislation
- should be proportionate, justifiable and be capable of being met (for example, whilst beer glasses may be available in toughened glass, wine glasses may not)
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

1.17 Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy. Conditions attached to licenses and certificates must be tailored to the individual type, location 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 appropriate for the promotion of the licensing objectives in any individual case.

10.08 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it has been satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.

10.09 It is possible that in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives.

10.11 The Government acknowledges that different licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community, or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

10.12 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and /or different hours from those requested.

13.18 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 and is a matter for a planning authority in discharging its licensing functions

or for its statement of licensing policy and for the market. This is not a matter for a licensing authority in discharging its licensing authority in discharging its licensing functions or for its statement of licensing policy. (Rushcliffe does not have a cumulative impact policy)

13.55 The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

13.56 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

### 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 steps that are appropriate to promote the licensing objectives.
- the representations (including supporting information) presented by all the parties;
- the guidance;
- the statement of licensing policy;

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**

None