

TITLE:	LICENSING ACT 2003 DETERMINATION ROYAL HOTEL, WATERFOOT
TO/ON:	LICENSING DETERMINATION SUB-COMMITTEE, TUESDAY, 21ST MARCH 2006
BY:	SUSAN CHADWICK, LICENSING MANAGER
STATUS:	FOR PUBLICATION

1. PURPOSE OF THE REPORT

- 1.1 To advise elected members of a required determination of an application for review under Section 52 of the Licensing Act 2003.

2. RECOMMENDATIONS

- 2.1 Members are recommended to make a determination at the conclusion of the hearing as required by Regulation 26(1) of the Licensing Act 2003 (Hearings) Regulations 2005.

3. REPORT AND REASONS FOR RECOMMENDATIONS AND TIMETABLE FOR IMPLEMENTATION

- 3.1 On 2nd August 2005, the Licensing Authority received an application to convert an existing Justices Licence to a Premises Licence. As there was no objection from the Chief Officer of Police, the conversion was duly granted. The applicant was Punch Taverns Plc.
- 3.2 At the same time of making this application, the applicant had applied to vary the premises licence.
- 3.3 Following three representations from interested parties and one representation from the Chief Officer of Police, as a responsible authority, the application to vary a premises licence was determined at a Hearing held on 15th September 2005. The representations are appended at Appendix A.
- 3.4 The Licensing Determination Committee determined to grant the application with modified licence conditions. The existing Premises Licence attached to the premises licence are appended at Appendix B.
- 3.5 Following problems at the premises which had resulted in Police involvement, a meeting was held on 14th December 2005 with the management company,

CTD Leisure Management, in which an attempt was made to resolve the identified problems. The minutes of this meeting are appended at Appendix C.

- 3.6 On 19th December 2005, following the agreement to close the premises, a representative of CTD Leisure Management provided correspondence to inform the parties concerned that Punch Taverns would under no circumstances close the premises.
- 3.7 In this correspondence, Mr Potts of CTD Leisure Management provided the measures taken to alleviate the problems which included disallowing entry to anyone suspected to be under 18 years of age and to anyone with a bad reputation, implementing a "Check 21" policy, the prohibition of baseball caps or tracksuits, closing the bar at 11pm and not having a DJ over the Xmas period.
- 3.8 The Licensing Authority received on 27th January 2006, an application for the review of the premises licence from the Chief Officer of Police. This application is appended at Appendix D.
- 3.9 The Licensing Authority has complied with the requirements of Section 51 (3) by advertising the application and inviting representations.
- 3.10 A representation from Mr R Godwin was received on 1st February 2006. The representation relates to all four of the licensing objectives. This representation is appended at Appendix E.
- 3.11 Relevant extracts from the Statement of Licensing Policy are:

1.14 We will seek to give protection to local residents, whose lives can be blighted by disturbance and antisocial activity associated with the behaviour of some people visiting places of entertainment.

1.15 We desire to strike a balance between allowing people to enjoy their leisure, at the times and in the manner they wish to, and ensuring the licensing objectives are not undermined.

1.16 Licensing is about regulating licensable activities on licensed premises, in qualifying clubs and at temporary events within the definitions of the Act, and the conditions attached to the various authorisations will be focused on matters which are in the control of applicants and licence holders. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises. Licensing law will however be a key aspect of a holistic approach to the management of the evening and night time economy in town centres.

1.17 We will therefore focus upon the direct impact of the activities taking place at or in the vicinity of licensed premises on members of the public living, working or engaged in normal activities in the vicinity of those places.

3.1 We will promote the 4 licensing objectives, namely

- the prevention of **crime and disorder***
- **public safety***
- the prevention of **public nuisance**; and*

- *the **protection of children** from harm,*

and all our decisions will reflect these objectives.

- 3.2 *We consider each licensing objective to be of equal importance. They will be considered in relation to matters centered on the premises or within the control of the licensee. We will objectively consider the direct effect that the carrying on of the licensable activities has in the vicinity of the premises.*
- 3.3 *Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee or vicinity of licensed premises.*
- 3.5 *We will not deter any person from making representations in respect of any application or seeking a review of a licence.*
- 3.12 *Any conditions attached to premises licences and club premises certificates will reflect the Licensing Objectives and where appropriate, local crime prevention strategies*
- 3.14 *We will take account of other objectives such as the Community Health Action Plans and the Violent Crime Reduction Policies and action plans under our Crime and Disorder partnership.*
- 3.15 *We are committed to avoid duplication with other regulators and will not impose conditions upon licences which are already requirements under other legislation*
- 7.7 *The onus to provide the evidence will always be on the person or organisation making the objection or review application. This burden of proof will not however apply should there be a special saturation policy in being in relation to the area where the premises are situated.*
- 7.8 *Where individual premises are a focus for disorder and disturbance then, subject to representations, limitations may be appropriate. Where late hours are requested, particularly involving entertainment, the imposition of further conditions may be appropriate.*

4. LEGAL IMPLICATIONS ARISING FROM THE REPORT

- 4.1 Members are reminded that they must follow the rules of natural justice and they are bound by the Code of Conduct for Elected Members in licensing applications.
- 4.2 Members are reminded of the consideration they should give to the Human Rights Act 1998 in particular those rights afforded by Article 6 (right to a fair hearing), Article 1 of the First Protocol (protection of property) and Article 8 (right to respect for private and family life).
- 4.3 Members are reminded that they should have read or should hear all the facts prior to making a determination.
- 4.4 Members are asked to make a determination and state the reasons for that determination.

5. COMMITTEE DECISION

- 5.1 The Committee should consider the application from the Police referred to at paragraph 3.8, the representation referred to at paragraph 3.10 and any representations which are made by or on behalf of the Licensee.
- 5.2 Having considered all relevant facts, the Committee is empowered to take any of the following steps which are necessary to promote the licensing objectives:
- a. to modify the conditions of the licence;
 - b. to exclude a licensable activity from the scope of the licence;
 - c. to remove the designated premises supervisor;
 - d. to suspend the licence for a period not exceeding three months; or
 - e. to revoke the licence.
- 5.3 With regard to the steps mentioned at a. and b. above, the modification or exclusion may take effect for a limited period (not exceeding 3 months).

6. WARDS AFFECTED

- 6.1 The premises are situated within the Whitewell ward and no other ward is likely to be affected. The ward councillor(s) are not members of the sub committee.

For further information on the details of this report, please contact:

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Background documents-

Statement of Licensing Policy