

Licensing Panel Report



Report of Head of Legal & Democratic Services

AGENDA ITEM NO

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Date of meeting: 28 April 2009

Purpose of Meeting:

1. To consider the relevant representations received in respect of an application to vary the Premises Licence for Wallingford Arms, Broadway, Didcot, OX11 8QJ, under the Licensing Act 2003.

Introduction

2. The Licensing Act 2003 has established a single integrated scheme for licensing premises which are used for the supply of alcohol, regulated entertainment, late night refreshment or permission to carry on some or all of these activities. In the Act these activities are referred to collectively as the "licensable activities"
3. The standard procedure for the hearing of all licensing applications is attached as **Appendix A**.

Section 17 Crime and Disorder Act 1998

4. Section 17 states: "Without prejudice to any other obligation imposed upon it, it shall be the duty of each Authority to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can, to prevent crime and disorder in its area."

Application

5. The following information has been supplied by the applicant.

Type of application:	Application to vary a premises licence number 4267, The Wallingford Arms, Broadway, Didcot OX11 8QJ under the Licensing Act 2003
Applicant / Address	Punch Taverns Plc, Jubilee House, Second Avenue, Burton Upon Trent, Staffordshire. DE14 2WF.
Supply of Alcohol:	Yes
Designated premises supervisor name	Mr David Brewerton
<p>Summary of new application:</p> <p>The applicant has applied to extend the premises opening hours and regulated entertainment and sale of alcohol hours and licensable activities and also wishes to remove two conditions from the licences operating schedule. The application form is attached at <u>Appendix B</u>.</p>	
Details of application	<p>a. To permit live, recorded music, performance of dance or anything similar, provision of facilities for dancing and sale of alcohol Sunday to Wednesday 9:00hrs until 01:00hrs, Thursday 09:00hrs until 02:00hrs and Friday and Saturday 9:00hrs until 03:00hrs. New Years Eve from the start permitted hours New Years Eve until the end of permitted hours New Years Day.</p> <p>b. To permit late night refreshment Sunday to Wednesday 23:00hrs until 01:00hrs, Thursday 23:00hrs until 02:00hrs and Friday and Saturday 09:00hrs until 03:00hrs. New Years Eve from the start permitted hours New Years Eve until the end of permitted hours New Years Day.</p> <p>c. To permit hours premises are open to the public: Sunday to Wednesday 09:00hrs until 01:30hrs Thursday 09:00hrs until 02:30hrs. Friday and Saturday 09:00hrs until 03:30hrs. New Years Eve from the start permitted hours New Years Eve until the end of permitted hours New Years Day.</p> <p>d. To remove condition A from the operating schedule.</p> <p>e. To remove Condition C from the operating schedule.</p>

Promotion of Licensing Objectives

6. The operating schedule upon the existing premises licence, which is attached in **Appendix C**, has been amended with regard to the

proposed alterations and now shows that the licensing objectives will be met as follows:

General Licensing Objectives	
The Prevention of Crime and Disorder	<p>*Additional CCTV cameras installed.</p> <p>*SIA registered door staff are employed on Friday and Saturday evenings.</p> <p>*Bottled drinks will be decanted into plastic glasses on Friday and Saturday evening from 21:00hrs until close.</p>
Public Safety	<p>*Fence has been erected at the front of the premises.</p> <p>*Increased and improved external lighting.</p> <p>*Staff will be trained in all legislation relevant to their job role.</p>
The Prevention of Public Nuisance	
The Protection of Children From Harm	

*** also in operating schedule shown in Appendix C**

Background

7. The following background information is known about this premise.

Previous licences held:	The premises has held a Justices' Licences authorising the sale of alcohol prior to 2005, the premises applied to vary and convert the Justices' Licence to a premises licence during the transition stage of the Licensing Act 2003. The premises has applied for a number of temporary event notices since 2005 and so far this year the premises has applied for 8 temporary events to extend the premises hours.
Current convictions:	None
Details of licence reviews:	None
Complaints:	There are 2 complaints on file regarding noise nuisance from the premises this year. A further 3 noise complaints were received regarding noise in 2009.

Relevant Representations

8. Relevant representations from responsible authorities have been made in respect of the application listed in paragraph 5. Full details of these representations are attached to the report at **Appendix D**. A summary of the responses from the relevant authorities are as follows:

Police:	<p>Formal Objection but retracted from the objection after mediation took place and the applicant agreed for the following conditions to be attached to the premises licence.</p> <ol style="list-style-type: none"> 1. Door Supervisors all individually registered with the Security Industry Authority, shall be on the premises on any night that the premises trades past 01:00hrs. 2. Drinks shall be served in non-glassware drinking vessels (e.g. plastic polystyrene, waxed paper) after 23:59 on every evening. 3. No person shall be allowed to enter the smoking area whilst in the possession of any drinking vessel or open glass bottle, whether empty or containing any beverage after 01:00hrs. 4. No outside area shall be used after 01:00hrs unless it is the clearly marked or defined as defined smoking area. 5. All door supervisors working at the premises shall wear "high visibility clothing" and must have their Security Industry Authority badges clearly displayed".
Fire & Rescue Service:	No Objection
Environmental Health:	<p>The environmental health has objected to the premises variation on the grounds of public nuisance.</p> <p>It is felt by the environmental health team that the structure of the premises in its current form is not suitable to control noise both inside and outside the premises. Though mediation has taken place with the applicant and advice has been given by environmental health officers, it is still felt by environmental health that the structure is not suitable for increased hours. A copy of correspondence between the two parties can be found in Appendix E</p>
Planning:	No Objection
Trading Standards:	No response
Child Protection:	No response

Interested Parties

9. No representation has been made by any interested parties.

Legal Implications

10. Under Schedule 5 of the Licensing Act 2003 the applicant or a person who made a relevant representation may appeal to the Magistrates Court in the event of not accepting the decision of the Licensing Panel.

Policy Considerations

11. In determining applications the authority must give appropriate weight to:
- a. Representations received from Responsible Authorities;
 - b. Relevant Representations made by Interested Parties;
 - c. The Secretary of State's Guidance;
 - d. The Statement of Licensing Policy;
 - e. The steps necessary to promote the Licensing Objectives
12. The Licensing Officer considers the following policies taken from the Statement of Licensing Policy should be considered for this application.

Policy GN 23: Live music, dancing and theatre
The Authority will take proper account of the need to encourage and promote live music, dancing and theatre in balance with the potential for disturbance from these activities. In determining what conditions should be attached to licences and certificates, the Authority will take account of the need to avoid measures that inadvertently impose substantial indirect costs
Policy LH 3: Licensing hours not limited
The Authority will not reduce the hours permitted for licensable activities to less than those stated in an application, unless representations indicate that this is necessary and then only in the context of the individual merits of that application. In considering a limitation on trading hours, regard will be had to the nature of the locality around the premises.
Policy LH 5: Closing Times
In determining applications, the Authority will take into account the time that it is proposed to close the premises where patrons have been attracted to attend by a licensable activity. Regard will also be had to matters such as the nature of the locality and the availability of public transport at the time that the premises propose to close.
Policy LH 6: Dispersal procedures
The Authority will require applicants for Premises Licences where there is likelihood for nuisance to the neighbourhood due to patrons leaving the premises, to submit a written statement with their application, covering procedures for orderly dispersal of patrons at closing time. Frequently, but not exclusively, these types of premises will be those that open for regulated entertainment or sale of alcohol after midnight,

Such a statement should show how all staff in the premises are trained in its implementation. The Authority expects any dispersal procedure to state the time at which the licensable activities cease and the later, actual, closure time of the premises.

Policy LH 7: Latest admission times

In appropriate premises, where there is the possibility of customers moving between premises late at night or in the early hours of the morning in a way that could have a negative effect on any of the licensing objectives, the Authority expects latest admission times to apply where premises continue to sell alcohol for consumption on the premises and provide Regulated Entertainment after midnight. The Authority expects the latest admission time to be at least one hour before cessation of the licensable activity.

Policy LA 3: Premises Licence – Regulated Entertainment (General)

The Authority expects the applicant to address sources of noise leakage in practical ways such as:

- (a) providing adequate mechanical ventilation so that doors and windows can be kept closed;
- (b) ensuring that the mechanical ventilation is adequately sound-proofed;
- (c) installing a sound limiting device to prevent sound exceeding an appropriately defined level;
- (d) installing sound proofing measures to contain sound and vibration;
- (e) other organisational measures to ensure that potential sound leakage is contained, particularly from special events.

These measures may be employed singly or in combination. Applicants should ensure that they carefully consider Approved Document F (Ventilation) in the Building Regulations 2000 when deciding on the level and type of activity proposed in the premises.

Policy DPS 1: Designated Premises Supervisors – availability

The Authority expects the Designated Premises Supervisor to be normally readily available to manage activities at the premises. The Authority also expects the person in charge when the Designated Premises Supervisor is absent, to be both readily available and identifiable.

Policy PP 12: Supply of alcohol (“Off-sales”)

For applications that include the sale of alcohol for consumption off the premises, the Authority will expect operating schedules to address how sales of alcohol will be

confined to those entitled to purchase it and how the procedures will be consistently applied. The role of the Designated Premises Supervisor will be pivotal in this respect. The operating schedule should cover such practical issues as:

- (a) the display of prominent warning notices about the supply of alcohol to minors;
- (b) offences which adults can commit by buying alcohol for minors; and
- c. requirements for production of satisfactory proof of age.

The Authority expects that staff involved in the sale of alcohol will have had appropriate training in order to put the operating schedule into effect. Times during which alcohol may be sold will be restricted if it appears to the Authority, as a result of Representations, that this would promote the licensing objectives of preventing public nuisance, crime and disorder. The Authority will maintain close working relationships with both the Police and Trading Standards Officers who will conduct 'test purchasing' of alcohol under the 2003 Act in order to detect and prevent sales of alcohol to minors and to pursue prosecutions where appropriate.

Policy OS 3: Operating schedule – Log book

The Authority suggests that the managers of appropriate premises maintain a log of activities for the premises, that records the details of the manager and staff and the times that they are on duty, with details of incidents such as where people have been refused admission or have been ejected from the premises.

Policy OS 11: Operating schedule – CCTV

For appropriate premises, the Authority expects the use of CCTV equipment to capture images of appropriate quality, location and frequency. The Authority expects applicants for licences for such premises to demonstrate in their operating schedules that the installation and operational procedures for the equipment at the premises comply with Thames Valley Police's "Standard Minimum Closed Circuit Television Requirements".

Policy OS 14: Operating schedule – 'Pub-Watch' Schemes

The Authority strongly recommends that all premises licensed to sell alcohol will participate in a 'pub-watch' or similar approved scheme and become part of any alert system(s) that such schemes may implement to alert members about potential troublemakers.

Policy OS 13: Operating schedule – Door Supervisors

The Authority generally expects Premises holding regulated entertainment that continues beyond midnight to employ door supervisors in furtherance of the licensing objectives, unless it is shown to be unnecessary. In addition to the SIA requirements for registration, the Authority will require Door Supervisors to comply with the requirements of the "Thames Valley Door Safe" code of conduct whilst they are on duty. Where appropriate, the Authority will attach conditions to Premises Licences about the minimum numbers of male and female door supervisors on duty and their roles, which will reflect the layout of the premises, the location, the type of entertainment or function provided and the periods when regulated entertainment normally takes place. Where Representations have been made, the Authority may require premises to use door supervisors for particular types of regulated

entertainment which have a significant potential to provoke disorder, or where there are special promotional events in which the sale of alcohol is significant. At premises that have regular entertainment or where special events are taking place, other attendants who do not engage in security activities, may be required to supervise areas within the premises. The Authority expects door supervisors and other staff undertaking security or supervisory duties to be readily identifiable by members of the public and where appropriate to wear high visibility clothing.

Licensing Officer's Observation

13. A plan of the premises can be found at **Appendix F**.
14. This report provides information submitted by the applicant and from the records of the Environmental Services Department at South Oxfordshire District Council. The Panel is obliged to determine this application with a view to promoting the Licensing Objectives which are:
 - The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children From Harm
15. In making its decision, the Panel is obliged to have regard to the relevant provisions of the Act, Guidance and Policy.
16. The Panel must also have regard to all the relevant representations made and the evidence it hears. Members of the Panel when considering the application must confine themselves to considering only those aspects of the application in respect of which relevant representations have been made.
17. The Panel must either grant the application as applied for OR take such of the following steps as it considers necessary for the promotion of the licensing Objectives:
 - i. Modify the conditions of the licence, by altering or omitting or adding to them.
 - ii. Reject the whole or part of the application
18. The Panel cannot 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 one or more of the Licensing Objectives.

APPENDIX A

PROCEDURE FOR THE HEARING BY THE LICENSING PANEL

INTRODUCTION

1. Where both parties intend to produce documents in support of his/her case they shall exchange documents not less than 7 working days prior to the date of the hearing and further shall supply copies of these documents to the Council's Licensing Officer not less than 7 working days prior to the date of the hearing.
2. By reason of the confidential nature of some types of case heard by the Licensing Panel the public and press may be excluded from the proceedings.
3. The applicant will have the right to be accompanied at the hearing by his/her representative, who may present the case for or on behalf of the applicant.
4. At the commencement of the hearing, the applicant, or his/her representative and the Council's Licensing Officer, will present to the Licensing Panel details of any witnesses to be called.

LICENSING OFFICER

5. **The Licensing Officer** will then present the circumstances of the case, as supported by any documentary evidence, and may call witnesses.
6. **The applicant or his/her representative** may ask questions of the Licensing Officer and witnesses on any of the evidence presented by them.
7. **Objectors to the application** may then ask questions of the Licensing Officer and any witnesses called
8. **The Licensing Panel members** may ask questions of the Licensing Officer and witnesses on any of the evidence presented by them.

APPLICANT

9. **The applicant and his/her representative** may present his/her case/submission to the Licensing Panel as supported by any documentary evidence and may call witnesses.
10. **The Licensing Officer** may ask questions of the applicant and/or his/her representative and any witnesses on their evidence.

11. **The Objectors** to the application may ask questions of the applicant and any witnesses on their evidence.

12. **The Licensing Panel members** may ask questions of the applicant and/or his/her representative and any witnesses on their evidence.

THE OBJECTORS

13. **The Objectors** will give details of their objections to the application, this may be supported by documentary evidence and witnesses may be called.

14. **The Applicant** may then ask questions of the objectors and any witnesses called by the objectors.

15. **The Licensing Officer** may then ask questions of the objectors.

16. **The Licensing Panel members** may then ask questions of the objectors and any witnesses called by the objectors.

SUMMING UP

17 **The Licensing Officer, the applicant and/or his/her representative and the objectors** will then have the opportunity to sum up their cases if they so wish.

18 **All parties and their witnesses** will then be asked to withdraw from the meeting whilst the Licensing Panel deliberates in private. In the event of uncertainty on any of the evidence, all parties will be recalled regardless of the fact that the point in question may relate only to the evidence of one of the parties.

19 When the Licensing Panel has completed its deliberations all parties will be recalled to the meeting and the Chairman will announce the Licensing Panel's decision and the reasons for that decision.

APPENDIX B

Application to vary a premises licence under the Licensing Act 2003.

Wallingford Arms, Broadway, Didcot, Oxon. OX11 8QJ

Licence Number: 4267

APPENDIX C

Wallingford Arms, Broadway, Didcot, Oxon. OX11 8QJ

Licence Number: 4267

Current licence, operating schedule and conditions

APPENDIX C

Current Premises Licence: 4267

PREMISES LICENCE LICENSING ACT 2003	
Premises licence number	4267
Premises details	Telephone Number
Wallingford Arms	01283 545320

Broadway, DIDCOT, Oxon, OX11 8QJ	
Name, (registered) address of holder of premises licence	
Mr Punch Taverns	
Jubilee House Second Avenue Burton Upon Trent DE14 2WF	
Name address and telephone number of designated premises supervisor, where the premises licence authorises the supply of alcohol:-	
Mr David John Brewerton	
11 Ernest Road, DIDCOT, Oxon, OX11 8QH	
Tel : 07909914157	
Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol	
Licence Ref : 1074	Authority : South Oxfordshire District Council

Opening Hours of the Premises		
Day	Start	End
Monday	10:00	00:30
Tuesday	10:00	00:30
Wednesday	10:00	00:30
Thursday	10:00	00:30
Friday	10:00	01:30
Saturday	10:00	01:30
Sunday	010:00	00:30

Signed: _____
Margaret Reed, Head of Legal & Democratic Services
Dated: 22nd August 2006

Licensable activities authorised by the licence
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Activity	Details
Live Music	Indoor. Live entertainment of all descriptions as currently permitted under the public entertainment licence.
Recorded Music	Indoor. The playing of all descriptions of amplified recorded music as permitted under the existing licence (s). Variation applies to hours of operation only.
Dance Performance	Indoor. Organised performance of dance within the premises.
Like Live Music, Recorded Music, Dance Performance	Indoor. Live entertainment as permitted under the existing licence (s), and karaoke.
Dancing Facilities	Indoor. Facilities for all descriptions of dancing as currently permitted by the entertainment licence at the premises
Music Facilities or Dancing Facilities	Indoor.
Late Night Refreshment	Indoor.
Alcohol On and Off	Indoor & Outdoor.
Adult Entertainment	Under 18 years old will not be allowed to play on Section 34 permitted AWP machines.
	Children will not be allowed in the area immediately adjacent to the bar servery.

The times the licence authorises the carrying out of licensable activities		
Activity	Day(s)	Start End
Live Music	Mon Tue Wed Thu, Sun	10:0000:00
	Fri	10:0001:00
	Sat	10:0001:00
Recorded Music	Mon Tue Wed Thu Sun	10:0000:00
	Fri	10:0001:00
	Sat	10:0001:00
Dance Performance	Mon Tue Wed Thu Sun	10:0000:00
	Fri	10:0001:00
	Sat	10:0001:00
Like Live Music, Recorded Music, Dance Performance	Mon Tue Wed Thu Sun	10:0000:00
	Fri	10:0001:00
	Sat	10:0001:00
Dancing Facilities	Mon Tue Wed Thu Sun	10:0000:00
	Fri	10:0001:00

Music Facilities or Dancing Facilities	Sat	10:00 01:00
	Mon Tue Wed Thu	10:00 00:00
	Sun	
	Fri	10:00 01:00
Late Night Refreshment	Sat	10:00 01:00
	Mon Tue Wed Thu	23:00 00:00
	Sun	
	Fri	23:00 01:00
Alcohol On and Off	Sat	23:00 01:00
	Mon Tue Wed Thu	10:00 00:00
	Sun	
	Fri	10:00 01:00
Adult Entertainment	Sat	10:00 01:00
	Mon Tue Wed Thu	10:00 00:00
	Fri	10:00 01:00
	Sat Sun	10:00 01:00

Seasonal Variation for licensable activities authorised by the licence

Activity	Details
	None

Non Standard Timings for the Licensable activities authorised by the licence

Activity	Details
Live Music	None
Recorded Music	None
Dance Performance	None
Like Live Music, Recorded Music, Dance Performance	None
Dancing Facilities	None
Music Facilities or Dancing Facilities	None
Late Night Refreshment	None
Alcohol On and Off	None
Opening Hours	None

Registered number of company or charity if applicable

05266811

Note	
1	Conditions attached to this licence numbered 1-3 are listed in Annex 1, 2, and 3
2	A plan of the premises attached to this licence is shown in Annex 4
3	The Operating Schedule of the premises is shown in Annex 5
4	Please see Annex 6 for removed embedded restrictions

Annex 1 – Mandatory conditions

- | | |
|----|--|
| 1. | No supply of alcohol may be made under the Premises Licence;

(a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or

(b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended. |
| 2. | Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence. |
| 3. | A minimum of [number] Door Supervisors, all individually registered with the Security Industry Authority, shall be on the premises [at all times] [between [hh:mm] and [hh:mm] on [days] when] the premises are open for any licensable activity. |

Annex 2 – Conditions attached by the licensing authority after negotiation

None

Annex 3 – Conditions attached after a hearing by the licensing authority

None

Annex 4 – Plan(s)



Annex 5 - Operating Schedule

A We have applied for an extended period between the cessation of the supply of alcohol and the closure of the premises to give us the option to allow for a more gradual dispersal of customers. The style and operation of the pub will not differ significantly during the extended hours. Where this is appropriate, non alcoholic refreshment will be available in the extended period.

The premises will respect Spirit Groups approach to responsible drinking (a copy of which is enclosed in support of this application). Our policies change at regular intervals to reflect current trends and it would be inappropriate to standardise them on a permanent basis. The enclosed policy is included for information only and not as suggested conditions or to form part of any other operating schedule.

B When door staff are used they will be Security Industry Authority (SIA) approved and operate in accordance with the security industry guidelines.

A zero tolerance towards illegal drugs will be enforced at all times.

If a disc jockey is used on any night then he/she will ask customers to leave quietly.

If a CCTV system is installed at this site, it will continue to operate during the additional hours of trading and notices will be displayed.

All instances of crime and disorder will be reported to the Police and will be kept in an incident log book.

Additional CCTV cameras installed.

SIA registered door staff are employed on Friday and Saturday evenings.

Bottled drinks will be decanted into plastic glasses on Friday and Saturday evenings from 21:00 until close.

C Public safety is integral to the way that Spirit Group runs its business and is reviewed regularly through our health and safety policy. This policy is fully briefed and trained to all management and staff and we will continue to train our staff to the standards required by relevant legislation.

Free drinking water will be available at all times.

Fence has been erected at the front of the premises.

Increased and improved external lighting.

Staff will be trained in all legislation relevant to their job role.

D Additional patrols will take place by members of staff, internally, to limit any noise pollution when entertainment is being offered within the premises.

If appropriate, notices will be displayed asking our customers to respect our

neighbours when leaving the premises.

Where already used text/radio pagers will continue to be used for the additional hours of trading and will be monitored by a responsible member of staff.

Soft drinks and non-alcoholic refreshment will be available if we decide to use the option to stay open for an extended period between the cessation of the supply of alcohol and the closure of the premise (see above under General)

E When children are allowed upon the premises, any entertainment offered within the premises will be suitable for young persons.

Children will be required to be supervised by the accompanying adult at all times.

A no smoking area will be provided.

Soft drinks and non alcoholic drinks will be available.

A recognised Proof of Age Policy will be enforced.

Annex 6 - Imposed restrictions to be removed due to licence variation

To remove the restrictions and effects of Section 168 and 171 Licensing Act 1964 so as to allow the provisions under the Licensing Act 2003 to apply in relation to children.

To remove the restrictions on consumption of alcohol as set out in Section 63 (1) Licensing Act 1964 (drinking up time).

To remove the restrictions on credit sales in place by Section 166 Licensing Act 1964.

To extend the terminal hour at the premises in respect of the sale of alcohol and other licensable activities.

Remove the requirement and embedded restriction under s77 Licensing Act 1964 that sales and supply of alcohol be ancillary to the provision of facilities for music., dancing and/or substantial refreshments.

APPENDIX D

Representations received from Relevant Authorities

Appendix F

Site plan of Wallingford Arms.

