

# Crawley Borough Council

## Minutes of Licensing Sub Committee

Wednesday 18 May 2011 at 6.30pm

### Present:

Councillors L R Gilroy, J L Millar-Smith and B J Quinn

### Officers Present:

Sharon Rana Legal Clerk – Solicitor  
Mike Lyons Licensing Officer  
Chris Pedlow Democratic Services Officer

### Also in Attendance:

Applicant Matt Pocock – (*Area Manager for Punch Tavern PLC*)  
Richard Spink – (*Partner of Landlord*)  
Alison Smith – (*Premise Landlord*)  
Richard Wormald – (*Counsel for the Applicant – Punch Taverns PLC*)

Responsible Authorities Rob Burns – (*Environmental Health – Noise Pollution Team*)  
Ian Gray – (*Private Sector Housing Officer*) [Observing]  
Chris Boyle – (*Divisional Licensing Officer, Sussex Police*)  
P.C. Claire Levett – (*Crawley Licensing Officer, Sussex Police*)

Interest Parties Geraldine Hooton – (*Local Residents – Objector*)  
Walter Gridley – (*Local Residents – Objector*)  
Natalie Rockall – (*Local Residents – Objector*)

### 34. Appointment of Chair

#### RESOLVED

That Councillor B J Quinn be appointed Chair for the meeting.

### 35. Members' Disclosure of Interests

No disclosures of interests were made.

### 36. Application to Vary the Premises Licence – Half Moon, Southgate

The Sub Committee considered an application to vary the premises licence by Punch Tavern PLC, held in respect of the Half Moon, Brighton Road, Southgate, Crawley.

The Legal Clerk informed all parties that the Sub Committee Members had requested a briefing meeting with the Legal Clerk prior to the commencement of the Sub Committee, to confirm the procedure that would be followed during the meeting. It was confirmed that the Sub Committee had not asked for clarification of any aspect of the application or on the representations received from any party.

The Legal Clerk then asked all parties present, if they wished to make any relevant applications, for example to adjourn or to cross-examine the opposite party. No applications were made at this time, but they reserved the right should it be necessary, which the Sub Committee agreed to.

Report PES/030 of the Council's Head of Planning and Environmental Services was then presented by Mike Lyons, Senior Licensing Officer for Crawley Borough Council.

### **The Application**

The Sub Committee was informed that the Council had received an application on 22 March 2011 for a variation to the existing Premises Licence for Half Moon under the Licensing Act 2003 from Punch Tavern PLC, the premises licence holder.

#### The application sought to vary the following licensing activities:

##### Supply of Alcohol,

To extend the period in which alcohol could be sold from the current permitted finishing time of 0000 to that of 0200 on a Friday and Saturday.

##### Films, Live Music, Recorded Music, Provision of Facilities for Dancing, and the Provision of Anything of a Similar Description to the falling within the Licensable Activities, categorized as (e), (f) and (g)

To extend the period in which the licensable activities could take place from the current permitted finishing time of 0000 to that of 0200 on a Friday and Saturday.

##### Late Night Refreshments

To extend the period in which late night refreshments could be sold from the current permitted finishing time of 0030 to that of 0200 on a Friday and Saturday.

##### Hours Premises are Open to the Public

To extend the hours the premise may be open to the Public from the current permitted closing time of 0030 to that of 0230 on a Friday and Saturday.

The application also sought that the proposed variations would include '*from the start of permitted hours New Years Eve until the end of permitted hours on New Years Day*', and the removal of the condition on the premise licence that, '*A no smoking area will be provided.*'

It was confirmed by the Licensing Officer, that the Applicant had advertised the application in the press and that the notices had been displayed at the premises for the duration of the consultation period, in accordance with the statutory requirements and the Council's Licensing Policy Statement.

During the consultation period the Licensing Authority had received a number of representations from the Responsible Authorities, as detailed in paragraph 2.1.1, of the report. Of those, Sussex Police responded stating that they had no objections to the application, following a discussion with the Applicant who, as a result had amended the application before the Sub Committee to read 'Supply of alcohol from 1000 to 0100,' and the 'Premise Open to the Public from 1000 to 0130' on a Friday and a Saturday. A representation was also made by Environmental Services -

Pollution Team, who objected to the application on the grounds that it did not adequately address the statutory objective of 'Prevention of Public Nuisance.'

Six written representations had been received from interested parties – (Local Residents) which were set out in Appendix F to K within the report. Those representations were all objecting to the variation, based on the impact of granting the proposals on a number of the licensing objectives especially in respect of 'Prevention of Public Nuisance.'

Members were then guided through the remainder of the report, which set out the reasons for the Hearing and the aspects that the Sub Committee should take into consideration when dealing with the application, including the use of Section 182, as detailed in Section 3 and Section 4 of the report, respectively. The Licensing Officer then proceeded to inform the Sub Committee of the options available to them in respect of the application, namely

- To modify the conditions of the licence,
- or,
- To reject the whole or part of the application;

whilst emphasising to the Members that any decision made must be based upon the promotion of the four licensing objectives, and have regards to the relevant representations made.

### **The Applicant**

The Sub Committee invited the Applicant to address their proposals, which Mr Richard Wormald, stated he would be commenting on Punch Tavern's Plc behalf. He firstly said that the application was in essence made up of two elements, the first being the proposal to increase the time the premise could sell alcohol, including a period of 30 minutes 'drinking up time'. The second was a proposal to increase to the time in which regulated entertainment could occur on the premise. Mr Wormald reiterated that the variations being sought were the times agreed with Sussex Police and not those original proposed.

On the regulated entertainment proposals, Members were informed that the reason for the proposed variation was to make it simpler for occasional events such as ska DJ sets and acoustic musician sets to be held on the premise, rather than having late night events happening every Friday and Saturday evening. It was confirmed by the Landlord that she did not expect to have more than 18 events per year, and that currently the premises held such events through the use of Temporary Event Notices (TENs). It was noted that the premise had used 12 TEN's since January 2010 including five finishing at 0200. It was commented that the Applicant would find it acceptable, if the Sub Committee wished, to place a limit on the licence of 18 late night regulated entertainment per year, that could even take account of (within the limitations) possible uses of the 12 TENs. Therefore Mr Wormald suggested that a condition could be worded along the lines of '18 times a year less than the number of TENs application made,' thus not impacting on the premises right to apply for its 12 TENs per calendar year.

Mr Wormald informed the Sub Committee that the Applicant had recently been in contact with Mr Burns of the Pollution Team, and had sent him a set of 14 possible amendments/ concessions to their application, in response to his representations. The Sub Committee and all parties present then received a copy of an email containing the 14 amendments and also Mr Burns' response to them. Attached as Appendix A to these Minutes is an extract from the email correspondence that details the Applicant's 14 amendments (shown in bold) along with the response (shown in Italics).

The Sub Committee asked Mr Burns if he wanted to expand upon his views expressed within the email. He commented that he stood by the responses, that amendments numbered 2, 5, 6, 7, 8, 11, 12 and 13 were acceptable proposals, in relation to the proposed extension to the opening hours, as they would likely improve the situation currently experienced by neighbours, in terms of reducing public nuisance. Numbers 9 and 10 were not within his jurisdiction as a Responsible Authority, but he did think that they were positive proposals.

On proposal number 1, Mr Burns confirmed that there was no difference in levels (and therefore the potential to disturbance) between live music or recorded music and karaoke. If the proposal had included all aspects of regulated entertainment, ending at 2300 then he would support the proposal, however he acknowledged that this would mean no change to the current licence. Otherwise he could not support the proposal as the premise could not achieve late night inaudibility, without insulation and significant noise control equipment. Mr Burns said he would expand upon this further when he was presenting his case.

As a consequence of not accepting proposal 1, Mr Burns did not accept proposals numbered 3, 4 and 14 as they were integrally linked. He understood what the Applicant was trying to achieve with proposals 3 and 4, however through moving the speakers etc, it would mean their current noise limiter and its position, would become ineffective and it would therefore be a detrimental approach. The premise would have to recalibrate their noise limiter should it be moved, which would be costly, especially considering they had only recently had it set to its current location.

The Sub Committee then asked a number of questions of the Applicant's representative and the Landlord, including what arrangements were in place for taxis picking up patrons and how the use of doors would be controlled when the proposed late night regulated entertainment was taking place. In response Members noted that the taxi firm used by the Half Moon sent a text message to the premises once they arrived, rather than the sounding of the taxi's horn, and the SIA door staff would, along with all members of the Bar Staff, be responsible for controlling egress and access.

### **Responsible Authority**

Mr Burns addressed the Members and informed them that, prior to the application being submitted, the Environmental Health Team – Pollution Team (EHT) had not been contacted by the Applicant with regards to the proposals. If they had he would have informed them that without significant changes to the fabric of the building, it would not be possible to meet the requirement of inaudibility for late night entertainment. The policy the EHT used was that inaudibility was required for local residents from any premise holding any form of regulated entertainment between the hours of 2300 to 0700 the following day and if this was not achievable then objections would be raised.

Mr Walter Gridley, interjected and commented that from his home, (prior to 2300) he could currently hear noise emanating from the premise, so hearing noise passed 2300 would be unacceptable. He also felt that the Council should reduce that time in which the inaudibility was required.

Mr Burns continued, on the issue of TEN, and explained that he did not have the ability to challenge any premise from applying and using TENs, only the Police had that right. He could however, when the temporary events were taking place, monitor and control the noise level through other legislation such as the Environmental Protection Act 1990. He commented that was a better option than allowing the

suggested 18 events to be added to the premise license, without ensuring that fundamental changes be made such as noise reduction windows.

He asked that should the Sub Committee be minded to accept the 18 times inclusive of TENs proposal, a condition be included that required a noise control scheme (NCS) agreed with EHT to be implemented, and that no late night regulated entertainment could take place until all aspects of the scheme had been completed. It was confirmed that a NCS would ensure that inaudibility was achieved, by requiring the changes to the fabric of the building already discussed.

#### **Interested Parties – Objector**

The Chair of the Sub Committee invited each of the individual interested parties to present their submissions to the Hearing; it was asked that they confirm which appendix within the report was theirs as the names had been redacted. Geraldine Hooton confirmed that Appendix F was her representation, and that she did not wish to add anything further to her written submission and the discussions that had already taken place. Similarly both Walter Gridley (Appendix G) and Natalie Rockall (Appendix I), confirmed that they did not wish to add anything further to their submissions. The Licensing Officer responded to a question raised by Mr Gridley, and confirmed that the Applicant had followed all the correct procedures in advertising its application as confirmed within the report on page A/2 paragraph 2.1.

The Legal Clerk asked all parties present including the Sub Committee Members, whether they wished her to read out to the Hearing the three remaining representations, Appendix, H, J and K respectively, or whether they would be satisfied that the information contained within those Appendices be taken as read. The Sub Committee along with all parties present agreed that there was no need for them to be read out, following the Sub Committee's confirmation that as part of the Sub Committee's consideration, all representations would be considered with the same weight .

#### **RESOLVED**

In accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the following part of the hearing. The Sub Committee considered that the public interest in taking such action outweighed the public interest in the hearing taking place in public.

#### **37. Application to Vary the Premises Licence – Half Moon, Southgate**

The Sub Committee gave further consideration to the application and to the matters raised at the meeting. In formulating its decision the Sub Committee took into account the options that were available to them, and considered what was necessary to ensure that the licensing objectives were achieved.

#### **RESOLVED**

1. That the Premise License for Half Moon, be amended accordingly to
  - i). extend the hours of permitted Sale of Alcohol and Late Night refreshment until 0100 on Friday and Saturday, from the previously 2300
  - ii). extend the Opening hours of the Premises on Friday and Saturday to 0130, from the previously 2330

- iii). For the above extensions (on a Friday and a Saturday) to apply and be included in respect of the permitted hours for New Years Eve until the end of permitted hours on New Years Day.
2. That the Licensable Activities of Films, Live Music, Recorded Music, Provision of Facilities for Dancing, and the Provision of Anything of a Similar Description to the falling within the Licensable Activities, categorized as (e), (f) and (g), continue to finish at 2300 on Fridays and Saturdays, as currently stated on the Premise License.
3. That the condition, "*A no smoking area will be provided,*" contained within in Annex 2 to the Premises Licence be removed.
4. That condition number 8 of Annex 2 of the Premises Licence be reworded as follows:  
  
*"The use of the external drinking areas must cease at 2300, except for a Designated Smoking Area the use of which must cease at 0100 on the evenings that the premises close at 0130"*
5. That the following conditions be added to Annex 2 of the Premise License:
  - i). *Additional signage to be erected in the car park asking customers to leave the premises quietly.*
  - ii). *During any regulated entertainment the front doors of the premises will not be permitted to be used, except for an emergency.*
  - iii). *Doors and windows will be kept closed, except for access to and egress from the premises, during regulated entertainment.*
  - iv). *The premises will use a designated taxi company who will be asked not to beep horns on collection.*
  - v). *Customers waiting to be collected by a taxi will be asked to wait inside the premises.*
  - vi). *Only sealed bottles will be permitted to be taken from the premises as off sales.*
  - vii). *Only plastic glasses will be permitted to be used for those taking drinks outside the front of the premises.*
  - viii). *Bins will be placed outside the front of the premises when it is in use.*
  - ix). *Staff will undertake regular collections of used plastic glasses and litter from the front of the premises.*
  - x). *At closing time a member of staff will ask customers to leave the premises quietly.*
  - xi). *Where the premises will be open until 01:30, namely on a Friday and Saturday evening, a SIA registered door supervisor will be employed from 1930 until the premises closes.*

(The Sub Committee's reasons for this determination were provided in the public session, as detailed in Minute 38, Re-Admission of the Public, below).

### **38. Re-admission of the Public**

The Chair declared the meeting re-open for consideration of business in public session. The Chair asked that it be recorded that during their closed session considerations they had sought further clarification on one aspect of the application from the Applicant via the Committee Clerk. The Sub Committee sought confirmation that the Applicant's proposal to remove the condition, 'a no smoking area will be provided', was simply due to the fact that the 'No Smoking laws' had superseded the

condition, and the Applicant had confirmed that to be the case. It was noted that the Interested Parties and Responsible Authorities were present and had been invited to be involved in seeking the clarification. Mr Burns stated that he had also addressed the issue in his representation, and his comment had also fed back to the Sub Committee.

The Legal Clerk, on behalf of the Chair, announced the Sub Committee's decision, including their rationale, which was as follows:

The hearing of Punch Taverns Plc's application for a variation of the premises licence in respect of the premises at the Half Moon Pub, Brighton Road, Southgate, Crawley, was heard by a Licensing Sub Committee of Crawley Borough Council on 18 May 2011.

The Sub Committee considered the relevant representations which were made, considered all the material before it and took into account the guidance issued by the Secretary of State under the Licensing Act 2001 and the Council's own Licensing Policy for Liquor, Late Night Refreshment and Regulated Entertainment Licences 2008 – 2011.

The Sub Committee heard submissions made by Mr Wormald on behalf of the Applicant and submissions made by Mr Burns from the Pollution Team of the Environmental Health Department. It had also listened to the objections made by the interested parties Ms Hooton, Mr Gridley and Ms Rockall.

Further, the written representation made by the Fire and Rescue Service and the written objections received from the other interested parties were also considered by the Sub Committee.

The task of the licensing authority on an application to vary a premises licence was to consider the application and representations made and thereafter a duty fell upon the authority to impose such steps as set out in section 35(4) of the Act as it considered necessary for the promotion of the licensing objectives.

The Sub Committee, having heard the submissions, were disappointed that the Applicant had failed to seek the views of key responsible authorities, as it ought to have done in accordance with the Council's Licensing Policy, before submitting the application. The Sub Committee, however, recognised that endeavours had been made by the Applicant to rectify that and had considered the negotiations between the parties, particularly with the Police and the Pollution Team, by putting in place mitigating measures relating to the extension of the opening hours of the premises.

The Sub Committee went on to consider the amended application before it which sought to:

- Extend the hours of permitted sale of alcohol and late night refreshment until 0100 on Friday and Saturday.
- Maintain an additional 30 minutes drinking up time on the last permitted sale of alcohol
- Extend the opening hours of the premises on Friday and Saturday to 0130
- Permit films, live music, recorded music, karaoke and provision of facilities for dancing until 0100 on 18 occasions a year on either a Friday and Saturday.
- For all of the above to apply to and include the permitted hours New Years Eve until the end of permitted hours on New Years Day.
- Remove the condition "A no smoking area will be provided" Annex 2(6)

Having considered all the material, the Sub Committee was minded to make the following modifications to the existing premises licence:

- Extend the hours of permitted sale of alcohol and late night refreshment until 0100 on Friday and Saturday.
- To maintain an additional 30 minutes drinking up time on the last permitted sale of alcohol
- To extend the opening hours of the premises on Friday and Saturday to 0130

Further, having heard representations from the Pollution Team, particularly that it welcomed most of the mitigating measures put forward by the Applicant in respect of the abatement of any noise linked with the extended opening hours of the premises, the Sub Committee were minded to also impose the following conditions:

- Additional signage to be erected in the car park asking customers to leave the premises quietly.
- During any regulated entertainment the front doors of the premises will not be permitted to be used, except for an emergency.
- Doors and windows will be kept closed, except for access to and egress from the premises, during regulated entertainment.
- The premises will use a designated taxi company who will be asked not to beep horns on collection.
- Customers waiting to be collected by a taxi will be asked to wait inside the premises.
- Only sealed bottles will be permitted to be taken from the premises as off sales.
- Only plastic glasses will be permitted to be used for those taking drinks outside the front of the premises.
- Bins will be placed outside the front of the premises when it is in use.
- Staff will undertake regular collections of used plastic glasses and litter from the front of the premises.
- At closing time a member of staff will ask customers to leave the premises quietly.
- Where the premises will be open until 0130, namely on a Friday and Saturday evening, a SIA registered door supervisor will be employed from 1930 until the premises closes.

The Sub Committee were further minded to remove the condition "A no smoking area will be provided" Annex 2(6) as requested, as it was satisfied that there was existing legislative provision which now made this condition of the licence redundant.

Further, having heard representations from the interested parties and the Pollution Team about the potential noise disturbance to the surrounding residents as a result of the extended opening hours of the premises, the Sub Committee was further minded to re-word existing condition number 8 of Annex 2 (on the current premises licence) so that it now read:

"The use of the external drinking areas must cease at 2300, except for a Designated Smoking Area the use of which must cease at 0100 on the evenings that the premises close at 0130"

The Sub Committee went on to consider the variation proposal which sought to permit films, live music, recorded music, karaoke and provision of facilities for dancing until 0100 on 18 occasions a year on either a Friday or Saturday.

When reaching its decision, the Sub Committee had taken into account the considerations recommended in the Section 182 statutory guidance when determining



applications to vary the time during which licensable activities took place, and had namely considered the following:

- the nature of the licensable activity;
- the extent of additional hours sought and whether it will involve later opening or opening between 2300 and 0700;
- proximity of the premises to residential areas;

The Sub Committee further considered the views of the responsible authority for noise and heard that the Pollution Team had in fact opposed this aspect of the application for the variation on the basis that the fabric of the premises building in question was not appropriate for regulated entertainment after the hours of 2300 and that inaudibility between the hours of 2300 – 0700 would not be achieved. The Sub Committee came to the view that this would undermine the licensing objective of the prevention of public nuisance.

Further, the Sub Committee had listened carefully to the submissions of the interested parties, the local residents within the vicinity of the premises, and had appreciated their personal experience and knowledge of the local area, particularly the extent to which they were already disturbed by the noise from those premises. The Sub Committee had placed weight on the particular location of the premises, being that it was a licensed premise within very close proximity to neighbouring residential areas, which was a substantial consideration of the Sub Committee. The Sub Committee decided that the licensing objectives would not be promoted if the hours of regulated entertainment were extended at this particular premises at this particular location.

The Sub Committee further considered the Applicant's argument that if the regulated entertainment aspect of the application were to be granted then it would only provide a further 6 occasions a year (albeit those occasions being controlled by the premises licence) in addition to any Temporary Event Notice the Premises Licence Holder could already be entitled to in any year. However, the Sub Committee was not persuaded by that argument and felt that to modify this aspect of the application would not promote the licensing objective of the prevention of public nuisance.

That part of the application was therefore refused and for the avoidance of doubt, any provision of regulated entertainment remained unchanged and in the same form as the existing premises licence.

### **39. Closure of Meeting**

With the business of the Sub Committee concluded, the Chair declared the meeting closed at 10.55pm.

Councillor B J Quinn  
**Chair**

## Appendix A

**1. Live music will finish at 23:00h**

*I appreciate that your client has acknowledged the impact that regulated entertainment will have after 11pm. Of course there is no difference in level (and therefore the potential to disturb) between live music or recorded music and karaoke, this is understood by the current DPS.*

*Therefore, if the first point of your bullet point list is expanded to include recorded music and category H "anything of a similar description" I would be happy to agree this in relation to the provision of regulated entertainment. This would of course leave the situation with regard to regulated entertainment as it is presently.*

*I would be happy to meet with your client prior to any future application regarding regulated entertainment to discuss the works necessary to achieve the required standards of noise insulation and noise control.*

**2. Additional signage erected in the car park asking customers to leave the premises quietly.**

*Accepted. This may improve the situation currently experienced by neighbours.*

**3. Speakers moved to the rear of the premises, near to the kitchen, so that it is away from residential property.**

*Rejected – Irrelevant given point 1 above. The current arrangement is tied in with noise limiter positioning to achieve acceptable levels before 11pm.*

**4. Speakers will be directed away from windows and doors.**

*Rejected – Irrelevant given point 1 above. The current arrangement is tied in with noise limiter positioning to achieve acceptable levels before 11pm.*

**5. During any regulated entertainment the front doors of the premises will not be permitted to be used, except for emergency.**

*Accepted. This may improve the situation currently experienced by neighbours.*

**6. Doors and windows will be kept closed, except for access to and egress from the premises, during regulated entertainment.**

*Accepted. This may improve the situation currently experienced by neighbours.*

**7. The premises will use a designated taxi company who will be asked not to beep horns on collection.**

*Accepted. This may improve the situation currently experienced by neighbours.*

**8. Customers waiting to be collected by a taxi will be asked to wait inside the premises.**

*Accepted. This may improve the situation currently experienced by neighbours.*

**9. Only sealed bottles will be permitted to be taken from the premises as off sales.**

*Not relevant to prevention of public nuisance.*

- 10. Only plastic glasses will be permitted to be used for those taking drinks outside the front of the premises.**

*Not relevant to prevention of public nuisance.*

- 11. Bins will be placed outside the front of the premises when it is in use.**

*Accepted. This may improve the situation currently experienced by neighbours.*

- 12. Staff will undertake regular collections of used plastic glasses and litter from the front of the premises.**

*Accepted. This may improve the situation currently experienced by neighbours.*

- 13. At closing time a member of staff will ask customers to leave the premises quietly.**

*Accepted. This may improve the situation currently experienced by neighbours*

- 14. When regulated entertainment takes place until 01:00h a SIA registered door supervisor will be employed from 30 minutes before the start of the entertainment until the premises closes.**

*Rejected: Irrelevant given point 1 above.*