

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Licensing Sub-Committee (2003 Act) 10 January 2008
AUTHOR/S: Corporate Manager Health & Environmental Services / Licensing Officer

APPLICATION TO VARY THE EXISTING LICENCE: THE PEAR TREE PUBLIC HOUSE, BASSINGBOURN

The Application

1. The application (**APPENDIX A**) to vary the existing licence for the Pear Tree Public House, Bassingbourn was received by the licensing section on the 9 November 2007. The requirements for advertising and displaying relevant notices were carried out in accordance with the Licensing Act 2003.

The premises are currently permitted to open to the public:

- Monday to Saturday between 11.00 hours and 23.20 hours,
- Sunday 11.00 hours to 22.50 hours,
- Premises are licensed for both on and off licence sales.
- The premises are also permitted to Play recorded music, live music and supply the provision of entertainment of a similar nature. Full details of current license and conditions are attached as **APPENDIX B**.

Background

2. The premises are in a village location positioned on the main road, with residential properties in the near vicinity. The premises open onto the road, and there is a patio area with seating to the rear of the premises that accesses the car park. (Map attached as **APPENDIX C**). A Plan of the premises will be available for viewing at the hearing.
3. The application has been made by Punch Taverns plc.
4. The variation application is for: -

- **To vary the permission of sale & supply of alcohol**

Monday - Saturday from 23.00 hours to 01.00 hours (2 hours)

Sunday 22.30 hours to 23.00 hours (30 minutes)

An additional extra hour into the morning each Bank holiday Friday, Bank Holiday Saturday, Bank Holiday Sunday, Christmas Eve and Boxing day.

From end of current permitted hours on New Years Eve through to the start of permitted hours on New years Day.

- **To vary the permission of hours premises open to the public**

Monday – Saturday 23.20 hours to 01.30 hours (2 hours)

Sunday 22.50 hours to 23.30 hours (30 minutes)

An additional extra hour into the morning each Bank holiday Friday, Bank Holiday Saturday, Bank Holiday Sunday, Christmas Eve and Boxing day. From end of current permitted hours on New Years Eve through to the start of permitted hours on New years Day.

- **To Vary the permission for the performance of live music indoors only**

Monday to Saturday 23.00 hours 01.00 hours (2 hours)

Sunday 22.30 hours to 23.00 hours (30 minutes)

An additional extra hour into the morning each Bank holiday Friday, Bank Holiday Saturday, Bank Holiday Sunday, Christmas Eve and Boxing day. From end of current permitted hours on New Years Eve through to the start of permitted hours on New years Day.

- **To vary the permission for recorded music indoors only**

Monday to Saturday 23.00 hours 01.00 hours (2 hours)

Sunday 22.30 hours to 23.00 hours (30 minutes)

An additional extra hour into the morning each Bank holiday Friday, Bank Holiday Saturday, Bank Holiday Sunday, Christmas Eve and Boxing day. From end of current permitted hours on New Years Eve through to the start of permitted hours on New years Day

- **To vary the permission of facilities for entertainment of a similar description to music or dancing, indoors only.**

Monday to Saturday 23.00 hours 01.00 hours (2hours)

Sunday 22.30 hours to 23.00 hours (30 minutes)

An additional extra hour into the morning each Bank holiday Friday, Bank Holiday Saturday, Bank Holiday Sunday, Christmas Eve and Boxing day. From end of current permitted hours on New Years Eve through to the start of permitted hours on New years Day.

Relevant Representations

5. Representations had been received from:

Local residents
Environmental Health
Police

All letters are attached at **APPENDIX D**.

6. The representations submitted by the general public relate to Public nuisance, Prevention of Crime & Disorder and Public Safety objectives, guidance from the SCDC Licensing Policy and Secretary of State Guidance is offered on these matters below.

Officer's Views

7. Members when considering the application should be aware that they may only take into consideration the parts of the application that represent a variation. They may:

(a) Accept the application as submitted,

- (b) Reject the application or,
 - (c) Vary the application further by restricting times and activities and/or imposing conditions relevant to the licensing objectives.
8. Members should be aware that each application must be considered on its individual merits and any decision must clearly focus on the promotion of one or more of the four statutory objectives which are:
- The prevention of crime and disorder,
 - public safety,
 - prevention of public nuisance,
 - protection of children from harm.
9. Each objective is of equal importance and it is important to note that there are no other licensing objectives.
10. S.182 Guidance, whilst not legally binding, is clear that licensing law is not the primary mechanism for the general control of individuals once they are away from licensed premises. However Licensees should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises for example on the pavement, in a beer garden or smoking shelter, where and to the extent that these matters are within their control.
11. The guidance also goes on to state that there is no general presumption in favour of lengthening licensing hours within the Licensing Act and the four licensing objectives must be paramount considerations at all times. Where there are representations to an application and the committee believes that changing the hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested

Policy Considerations

Conditions relating to the prevention of public nuisance.

- a) *Consideration may be given to conditions that ensure that:*
- 1) *Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties*
 - 2) *Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.*
 - 3) *The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in the surrounding areas are restricted.*
 - 4) *The placing of refuse - such as bottles- into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.*
 - 5) *Noxious smells from the licensed premises are not permitted (subject to existing legislation not providing adequate measures) so as to cause a nuisance to nearby properties and the premises are properly vented.*
 - 6) *Flashing or particularly bright lights on or outside licensed premises (any such condition must be balanced against the benefits of providing lighting to promote the prevention of crime and disorder).*

b) *Hours*

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or club premises certificate for the prevention of public nuisance:

- 1) *Conditions may be placed on premises restricting (other than where they are protected by the transitional provisions of the Act) the hours during which premises are permitted to be open to the public or to members and their guests.*
- 2) *Restrictions may be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times*
- 3) *Restrictions may be necessary on parts of a premise used for certain licensable activities at certain times.*

Conditions Relating to Public Safety (including fire safety)

Conditions relating to public safety will be those that are necessary to promote the objective of public safety for individual premises or clubs. They should not duplicate other legal requirements. Equally the attachment of conditions to a premises licence or club premises certificate will not relieve employers of the statutory duty to comply with the requirements of Health and Safety legislation and the requirements under the management of Health and Safety at Work regulations 1999 and the Fire Precautions (Workplace) regulations 1997 to undertake risk assessments.

Conditions enforcing these arrangements will therefore be unnecessary.

Where existing legislation does not provide adequately for the safety of the public consideration may be given to conditions covering:

a) *Disabled people*

- 1) ***Adequate arrangements to enable their safe evacuation in the event of an emergency.***
- 2) ***Disabled people on the premises are made aware of those arrangements***

b) *Escape routes*

- 1) ***All exit doors are easily openable without the use of a key, card, or similar means***
- 2) ***Doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept.***
- 3) ***Any removable security fastenings are removed whenever the premises are open to the public or occupied by staff***
- 4) ***All fire doors are maintained effectively self closing and shall not be held open other than by approved devices (For example, electromagnetic releases operated by smoke detectors).***
- 5) ***Fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut.***
- 6) ***The edges of treads of steps and stairways are maintained so as to be conspicuous.***

- c) *Safety Checks*
- 1) ***Safety checks are carried out before the admission of the public and details of such checks are kept in a log book.***
- d) *Curtains, Hangings, Decorations and upholstery*
- 1) ***Hanging, curtains and temporary decorations are maintained in a flame- retardant condition***
 - 2) ***Any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1, and crib ignition source 5 when tested in accordance with section 5 of BS 5852:1990.***
 - 3) ***Curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs, or fire fighting equipment.***
 - 4) ***Temporary decorations are not used without prior notification to the Licensing Authority/Fire Authority.***
- e) *Accommodation limits*
- 1) ***Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded***
 - 2) ***The licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.***
- f) *Fire action notices*
- 1) ***Notices detailing the actions to be taken in the event of a fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration***
 - 2) ***In the case of an outbreak of fire the fire brigade must be called at once to any outbreak, however slight and the details recorded in a Fire Log Book – to be kept available for inspection by the Council or an authorised officer***
 - 3) ***The local Fire Control Centre is notified as soon as possible if the water supply to any fire extinguishing equipment is cut off or restricted.***
- g) *Access for emergency vehicles and first aid.*
- 1) ***Access for emergency vehicles is kept clear and free from obstruction.***
 - 2) ***Adequate and appropriate supply of first aid equipment and materials is available on the premises***
 - 3) ***At least one suitably trained first-aider shall be on duty when the public are present and if more than one suitably trained first-aider that their respective duties are clearly defined.***
- h) *Lighting*

- 1) ***In the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present***
- 2) ***Fire safety signs are adequately illuminated***
- 3) ***Emergency lighting is not altered***
- 4) ***Emergency lighting batteries are fully charged before the admission of the public, guests and members***
- 5) ***In the event of failure of normal lighting where the emergency lighting has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged. If the emergency lighting battery has a capacity of three hours the appropriate period by the end of which the public should have left is one hour.***

k) *Alterations to premises*

- 1) ***Alterations that make it impossible to comply with an existing condition to premises should be notified to the Local Authority***
- 2) ***The holder of the premises licence should apply for a variation to the existing licence should any alterations make it impossible to comply with any existing condition.***

2. Conditions relating to Crime and Disorder

a) Door Supervisors (registered with the Security Industries Authority)

The Local Authority recognises that in applications where door supervisors are referred to in the operating schedule conditions relating to door supervisors are mandatory. Where conditions are attached relating to the provision of door supervisors and security they may be valuable in:

1. preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
2. keeping out excluded individuals (subject to court bans or bans imposed by licence holder);
3. Searching and excluding those suspected of carrying illegal drugs or carrying offensive weapons and;
4. maintaining orderly queuing outside venues

Where door supervisors are to be a condition of a licence they are required to be licensed through the Security Industries Authority in line with the Securities Industry Act 2000.

b) Bottle bans

It is recognised that glass vessels (ie bottles and glasses) may be used as weapons inflicting serious harm during incidents of disorder. Conditions may include:

1. No bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar.

2. No customer carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.

In appropriate circumstances conditions may exempt bottles containing wine or similar sold for consumption with a table meal by customers who are seated in a separate area from the bar.

c) CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions may include:

1. The need to have CCTV cameras on the premises
2. The precise positioning of each camera
3. The requirement to maintain cameras in good working order
4. The requirement to retain recordings for an appropriate period.

d) Other conditions that may be considered relevant to promote the reduction of crime and disorder may include:

1. Restriction on drinking areas
2. Capacity limits
3. Proof of age cards
4. Crime prevention notices
5. Signage at or immediately outside the premises
6. Use of plastic containers and toughened glass

Legal Implications

12. All parties will maintain a right of appeal to a Magistrate's Court after the determination of this committee.

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