

Agenda Item No: 4 **Report No:** 204/10
Report Title: Application to vary a Premises Licence Lincolns, High Street, Lewes, BN7 1YE
Report To: Licensing Sub-Committee **Date:** 17/9/2010
Ward(s) Affected: Lewes Castle
Report By: Director of Planning and Environmental Services
Contact Officer(s): Ian Kedge, Head of Environment and Health
Garry Clark, Licensing Officer

1. The Application:

1.1. Applicant: Punch Taverns PLC Jubilee House Second Avenue Burton on Trent DE14 2WF

1.2. Premises: Lincolns 179 High Street Lewes. BN7 3YE

1.3. Type of application: Application to vary a Premises Licence under Section 34 of the Licensing Act 2003.

1.4. Licensable activities:

1.4.1. Current:

Opening Hours

Monday to Saturday 10am to 12.30am (the following morning)

Sunday 12 noon to 12 midnight

Non standard timings: A further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend. A further additional hour into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend. An additional hour every Christmas Eve. An additional hour every Boxing Day. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Sale by retail of alcohol

Monday to Saturday 10am to 12 midnight

Sunday 12 noon to 11.30pm

Non standard timings: A further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May Bank Holiday Spring/Whitsun Bank Holiday and every August Bank Holiday weekend. A further additional hour into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend. An

additional hour every Christmas Eve. An additional hour every Boxing Day. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Live music (indoors)
Monday to Saturday 10am to 12 midnight
Sunday 12 noon to 11.30pm

Non standard timings: As previously stated under sale by retail of alcohol.

Recorded music (indoors)
Monday to Saturday 10am to 12 midnight
Sunday 12 noon to 11.30pm

Non standard timings: As previously stated under sale by retail of alcohol.

Provision of facilities for entertainment of a similar description to that for making music and dancing (indoors)
Monday to Saturday 10am to 12 midnight
Sunday 12 noon to 11.30pm

Non standard timings: As previously stated under sale by retail of alcohol.

Provision of late night refreshment (indoors)
The Licence may also provide and permit the consumption of late night refreshment Monday to Saturday from 11pm to 11.30pm (excluding Good Friday and Christmas Day), and on New Years Eve until 5am on New Years Day.

1.4.2. Variation application:

Opening hours
Friday and Saturday until 2am

Sale by retail of alcohol
Friday and Saturday until 1.30am

Recorded music
Friday and Saturday until 1.30am

Late night refreshment
Friday and Saturday until 2am

Provision of facilities for dancing (indoors)
Monday to Thursday 10am until 12.30am Friday and Saturday 10am until 1.30am. Sunday 12pm until 1200am

Provision of facilities of a similar description to that for making music and dancing (indoors)
Friday and Saturday until 1.30am

Non standard timings: A further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend. A further additional hour into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend. An additional hour every Christmas Eve and every Boxing Day eve. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

To remove all existing conditions and replace with those in the operating schedule incorporated as part of the variation application.

1.5. Steps to promote the Licensing objectives:

1.5.1 The applicant has offered the following objectives to promote the Licensing Objectives.

1.5.2. General:

A 30 minute drinking up time on top of the last permitted sale of alcohol to allow customers to use the toilet facilities and disperse from the premises
Location of fire safety and other safety equipment subject to change in accordance with the requirements of the responsible authorities or following a risk assessment.

Any detail shown on the plan that is not required by the licensing plans regulations is indicative only and subject to change at any time.

1.5.3. Prevention of crime and disorder:

CCTV is installed and maintained at the premises.

Management and staff will monitor customer behaviour.

The premises management has a zero tolerance drugs policy

The premises management will be active members of the local pub watch scheme, including the radio communications system.

Toilets will be checked regularly.

1.5.4. Public safety:

First aid facilities to be available at all times and an accident/incident book to be on site for staff and public.

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

The premises is equipped with emergency lighting, illuminated exit signs and a fire detection system.

1.5.5. Prevention of public nuisance:

Doors and windows to be kept closed (except for access to and egress from the premises) during the provision of regulated entertainment.

Notices will be displayed asking customers to leave the premises quietly and to respect the neighbours.

The premises is to promote a licensed taxi service to facilitate its customers making onward journeys. The taxi operator will be asked not to sound the horn on pickup.

The use of the roof level court yard will finish at 21.30 each day.

Staff will carry out regular noise checks during the provision of regulated entertainment to monitor the levels and escape of noise.

1.5.6. Protection of children from harm:

Children will be permitted when accompanied by an adult until 1900 hours.

A challenge 21 policy will be employed whereby those individuals who appear to be under the age of 21 years and are attempting to purchase alcohol will be asked for identification. The only type of identification that will be accepted is a passport, driving licence or any PASS accredited identification.

1.6 Additional and modified conditions agreed by applicants:

1.6.1. As a result of recommendations by Environmental Health and following correspondence with a resident Mr Klein who resides in the vicinity of the premises, additional and modified conditions have been accepted by the applicants and will replace those offered under public nuisance at paragraph 1.5.5.

1.6.2. Public nuisance.

Prominent and visible notices shall be displayed urging customers to respect the amenity of the area for local residents and leave the premises quietly.

Lighting to provided to illuminate the premises shall be directed so as to avoid causing a nuisance to the public.

Access to and use of the outside courtyard area and roof courtyard area shall cease after 2130 hours each day.

Doors and windows shall be kept closed from 2000 hours each day (except access to and from the premises by customers) and at other times during the provision of regulated entertainment.

A licensed taxis service shall be promoted at the premises to facilitate customers when making onward journeys. Taxi operators shall be asked not to sound the horn on arrival or when waiting.

Staff shall regularly monitor noise levels emanating from the premises during the provision of regulated entertainment. Where noise levels are considered to be excessive outside of the premises, the volume shall be adjusted to reduce noise to reasonable levels.

2. Background information:

2.1. The premises subject of this application is a town centre public house situated alongside Lewes Crown Court and on the busy High Street area surrounded by retail shops, offices and residential accommodation. In the vicinity there is a Hotel, several restaurants, an off licence, coffee houses and a late night take away called Charcoal Grill. There are two other

public houses close by, The White Hart Hotel and The Royal Oak and there are several others within easy walking distance. During the day this area is busy with the public visiting the shops and other retail and business premises. During the evening at weekends the High Street is busy with traffic and the public visiting the various restaurants, takeaways, off licence and public houses in the vicinity. There is considerable pedestrian traffic and associated noise in the area until late in the evening and early morning up to the take away closing at 1am.

- 2.2.** Formally called the Rainbow the premises closed for extensive alterations and total refurbishment in April 2009 at considerable expense to the pub company, Punch Taverns PLC and in September 2009 reopened under a new name called Lincolns and new management. The old Rainbow premises which was run down and in need of investment was replaced with Lincolns under new management and a greatly enhanced operating profile and a different class of clientele.
- 2.3** The premises has a licensed area on two floors the ground floor and first floor with residential accommodation above. The ground floor has the main bar and seating area and the first floor the toilets and customer access to the rear roof courtyard area which closes at 9.30pm. It currently trades until 12am Monday to Saturday and 11.30pm on Sunday. The application is for additional hours on Friday and Saturday until 1.30am with drinking up time and a closing hour of 2am.
- 2.4.** The tenant Mr Flaherty is an experienced licensee who owns an established public house and restaurant in Uckfield. The premises on site manager at Lincolns is a local man and under the current management the premises has been well run with no history of problems or incidents and good cooperation and communication with all the relevant responsible authorities.
- 2.5.** I have checked the Councils records for any complaints from residents in the vicinity of the premises since it opened in its present form in September 2009 and there have been no incidents reported to us of noise nuisance or disorder associated with the premises.
- 2.6** Historically there have been considerable problems with the old Rainbow premises and prior to September 2009 there were many incidents over a number of years of noise nuisance and disorder from the premises both inside and outside from the pub's customers and the popular Charcoal grill takeaway situated across the road. The Rainbow was predominately a youngsters pub and the last one to visit on the drinking circuit before closing time and then across the road to visit and the congregate outside the Charcoal Grill thereby causing regular problems for the police and residents alike.
- 2.7.** However since the refurbishment and change the current management has completely altered the style and profile of the premises to such an extent that it is no longer currently a problem to the residents and the

authorities and they have overturned years of problems and poor management adopting best practice and providing effective management of a town centre public house.

3. Representation received:

3.1. Responsible authorities.

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|----------------------------------------------|-------------------------------------------------------------|
| 3.1.1. <u>Police:</u> | No comment. |
| 3.1.2. <u>Environmental Health:</u> | No objections. Additional conditions accepted by applicant. |
| 3.1.3. <u>Fire Officer:</u> | No comment. |
| 3.1.4. <u>ESCC – Child Protection:</u> | No comment. |
| 3.1.5. <u>Trading Standards:</u> | No comment. |
| 3.1.6. <u>Health & Safety Executive:</u> | No comment. |
| 3.1.7. <u>Planning:</u> | No comment. |

3.2. Interested parties:

- 3.2.1. One letter has been received within the relevant time wishing to make representations about the application for a premises licence at Lincolns (Appendix 1). The letter is from 61c Limited, the tenants management company on behalf of 7 residents living directly opposite the premises at 61C High Street Lewes, which is a number of flats contained within this address.
- 3.2.2. The grounds for their objections are that the application will undermine one or more of the licensing objectives relating to crime and disorder and public nuisance. They are considered to be relevant to the application and not frivolous or vexatious

4. Licensing Policy Considerations:

- 4.1. Lewes District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003. It covers the licensable activities for retail sale of alcohol, regulated entertainment and late night refreshment which are subject to this licence application.
- 4.2. The aims of the Policy are to secure the safety and amenity of residential communities, help to ensure a sustainable environment, and to provide regulation of the cultural/entertainment industry and to promote the four Licensing Objectives of the Act. Namely;
- Prevention of crime and disorder
 - Public Safety
 - Prevention of public nuisance
 - Protection of children from harm

- 4.3.** The three guiding principles (set out in Paragraph 4 of the Licensing Policy) adopted by the Council as the Licensing Authority serve as a general guide to the Council when it carries out its licensing functions.
- 4.4.** All residents living in the vicinity of licensed premises have an equal right to make representations concerning applications for premises licences and hours of trading and to have those representations given equal weight regardless of the area of the District in which they live.
- 4.5.** In each case that arises following representations the Policy states the Council will:
- a) Consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities of the business involved and the rights of local residents to peace and quiet.
 - b) Examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation.
 - c) Consider restricting the hours of trading only in cases where there are good grounds for believing that the licensing objectives will be or are being undermined.
- 4.6.** If a responsible authority and/or interested parties do not raise any representations about a licensing application made to the Council, it is the duty of the Council to grant the Licence subject only to the conditions that are consistent with the operating schedule and any mandatory conditions prescribed in the 2003 Act itself.
- 4.7.** The Council may not therefore impose any conditions unless its discretion has been engaged following the making of relevant representation and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions that are necessary to promote the Licensing Objectives arising out of consideration of the representations.

5. National Guidance:

- 5.1.** The Council may tailor its own conditions or draw from the model conditions in the National Guidance issued under section 182 of the Act.
- 5.2.** The important sections under Annex D are conditions under part 1 relating to the prevention of crime and disorder and part 4 relating to the prevention of public nuisance.

6. Financial Implications:

There are no financial implications to this report.

7. Environmental Implications:

I have completed the Environmental Implications questionnaire and there are no significant effects as a result of these recommendations.

8. Risk Management Implications:

I have completed the Risk Management questionnaire and this report does not require a risk assessment.

9. Background Papers:

Application for the variation of a premises licence – Lincolns.
Lewes District Council - Statement of licensing Policy.
Pool of conditions - Annex D.

10. Appendices:

1. Letters from representors 61c Limited opposing the application.

11. Plans and Photographs:

Plan of premises for Lincolns 179 High Street Lewes.
Street plan, scale 1:1,250 and location Lincolns
Photographs of premises and surrounding area.