

**LICENSING SUB-COMMITTEE****25 February 2016****Attendance:**

Councillors:

Johnston (Chairman) (P)

Izard (P)

Laming (P)

**Officers in attendance:**

Miss C Stefanczuk – Licensing Manager

Mrs C Tetstall – Licensing Solicitor

Mrs A Toms – Environmental Health Manager

---

**1. REVIEW OF PREMISES LICENCE – FIRST IN LAST OUT, 37 WALES STREET, WINCHESTER**

(Report LR465 refers)

The Chairman welcomed to the meeting Piers Warne, on behalf of TLT Solicitors representing the Licence Holder, Punch Taverns, Ian Pearson, Area Manager for Punch Taverns and Jonathan Sweeney, the Designated Premises Supervisor (DPS) for the premises. The applicant for the review was Winchester City Council Environmental Health (a Responsible Authority) and was represented by Mrs A Toms.

Miss Stefanczuk introduced the review application to the Sub-Committee. In summary, she explained that the application for a review of the premises licence held by Punch Taverns for the First In Last Out, 37 Wales Street, Winchester had been made by the Environmental Health under section 51 of the Licensing Act 2003. The basis of the review was relating to the prevention of public nuisance licence objective, following complaints and noise monitoring visits carried near to the premises in 2015. The application was set out at Appendix 1 to the Report. A resident of Wales Street, who wished to remain anonymous, had submitted a representation which, following consideration by the Licensing Manager, was deemed sufficient for anonymity purposes. This representation is set out at Appendix 2 to the Report.

The Sub-Committee noted that several calls had been received by Licensing from residents who had advised that they were unaware of the application. However, it was confirmed that statutory notices had been adequately displayed in and nearby to the premises from 24 December 2015 for the minimum 28 day period and had been checked accordingly during this period. Notice had also been displayed on the noticeboard at the City Offices and made available on the Council's website. The Licensing Manager outlined the

five options available to the Sub-Committee when considering the review of the premises licence.

Miss Stefanczuk advised that Mrs Toms and Mr Warne had been in communication to discuss potential additional conditions to promote the licensing objectives. Mrs Toms confirmed agreement with the majority of these conditions, which had been circulated by Miss Stefanczuk via email to Members of the Sub-Committee on 24 February 2016 and were referred to at the meeting. Subsequently, Mrs Toms and Mr Warne had been in further discussion, whereby an alternative additional condition had been agreed in relation to the use of the garden.

In conclusion, Miss Stefanczuk notified the Sub-Committee that the DPS had changed three times at the premises since April 2014.

In response to questions, Miss Stefanczuk clarified that no response had been received by Licensing from any party prior to the submission of this review application.

Mrs Toms addressed the Sub-Committee and outlined the background to the review application. In summary Mrs Toms stated that, in August 2015 two complaints had been received on the grounds of unacceptable noise levels from loud music and patrons of the public house. A warning letter was sent to the Premises Licence Holder, Punch Taverns and the DPS to which no response had been received, as set out in Appendix 5(a). Log sheets were issued to the residents of Colson Road.

In October 2015 a further two complaints were received from residents of different properties in Colson Road, totalling four complaints within a three month period. The complaints referred to noise disturbance from loud live music and from patrons using the garden area. A further warning letter was issued to the DPS to which no response was received and log sheets were issued to the residents. As a result of the level of complaints received, a noise monitoring visit was carried out by officers on 16 October 2015 from nearby Colson Road.

Mrs Toms reported that during this visit, the premises had its patio doors open with excessive noise reported to be causing public nuisance to nearby residents. Upon entering the premises the DPS was asked to reduce the volume, close the doors and carry out monitoring from the garden area, as set out in the observations within Appendix 1 to the Report.

Following this noise monitoring visit, log sheets were received from one resident outlining several further occasions of disturbance.

A further noise monitoring visit was carried out on 12 December 2015, as officers approached the premises in their vehicle a loud bass thump could be heard permeating from the building which, given the close proximity to local residents, was considered to be causing a public nuisance. Upon entering the premises, officers found 10-12 members of the public using the garden, a boxing match playing on the television inside, live music playing and little

management in control of the premises at the time (details as set out in Appendix 1 to the Report).

Mrs Toms explained that the purpose of the review was to reduce the hours of live and recorded music and the use of the garden. Mrs Toms emphasised that, given the management concerns at the premises and the level of complaints received from residents, the current noise management plan was insufficient and that there needed to be tight controls in place over the hours. Mrs Toms stated that she was satisfied with the conditions that had been agreed with Mr Warne, which the Sub-Committee had been notified of. These addressed the majority of the concerns, together with the subsequent additional condition relating to the garden, agreed with Mr Warne.

Mr Warne (on behalf of TLT Solicitors, representing the Licence Holder, Punch Taverns PLC) addressed the Sub-Committee in response to the representation from Mrs Toms, Environmental Health. In summary, Mr Warne stated that the premises was being run by Jonathan Sweeney who would be DPS in the short to mid term period until a suitable tenant could be secured to manage the premises under Punch Taverns strict requirements. It was confirmed that Punch Taverns were happy to work with the Council's Licensing and Environmental Health Teams to ensure similar instances did not occur in future. Mr Warne reported that Mr Sweeney had previous experience of this particular premises over a number of years and that he would be in communication with residents urging them to contact him directly should any issues arise in the future.

Mr Warne apologised on behalf of the Licence Holder, Punch Taverns for the previous poor management history at the premises, advising that Punch Taverns had been let down on a number of occasions by unsuitable managers which had resulted in a lack of communication and little feedback on what problems were occurring at the premises.

Mr Warne stated that he had agreed to additional conditions with Mrs Toms, as set out in the email dated 24 February 2016 from the Licensing Manager, Miss Stefanczuk, together with a further additional condition relating to the use of the garden, as follows:

'The garden will close to customers at 22:30 hours, with the exception of smokers. After 22:30 hours, no drinks will be permitted outside. This condition is to have effect until 31 August 2016 whereupon it will cease to have effect.'

In response to questions, Mr Warne outlined the process that Punch Taverns would follow to take on future tenants at the premises to address these matters fully which would include the submission of a business case and business analysis to ensure the tenants' business model and expectation was an appropriate 'fit' for the premises and the location.

The Sub-Committee retired in deliberate in private.

In his closing remarks, the Chairman stated that the Sub-Committee had carefully considered the Application and the representations made by

Winchester City Council's Environmental Health Team. It had had taken into account the duties under the Crime and Disorder Act 1998 and the rights set out in the Human Rights Act 1998.

The Sub-Committee concluded that the conditions, as set out in the email dated 24 February 2016 at 3.56pm be imposed, with the addition of the condition relating to the management of the garden, as stated by Mr Warne in his representation, as set out above.

The Sub-Committee were pleased to note that Punch Taverns had admitted past management failures and were hopeful that they would now adequately supervise the premises.

The Chairman thanked all present for attending the meeting and explained to all parties that they would be formally notified of the decision in writing in due course and of their right to appeal to the Magistrate's Court within 21 days from the date of the decision letter.

The reason for the decision was to promote the licensing objectives by modifying the licence conditions to make them more enforceable.

#### RESOLVED:

1. That the Premises Licence conditions for First In Last Out, 37 Wales Street, Winchester be modified as set out below.

#### REASON

To promote the licensing objectives by modifying the licence conditions to make them more enforceable.

### **FIRST IN LAST OUT – MODIFIED CONDITIONS**

#### **Changes to hours**

1. A reduction in live music from 1am to 11:30pm
2. A reduction in recorded music from 1am to 11:30pm
3. A reduction in sales of alcohol to midnight on a Thursday to Saturday with a 20 minute drinking up time thereafter.

#### **Live and recorded music**

S177a exemption for live and recorded music is disapplied and conditions added to the premises licence as follows:

1. The DPS or Manager is to ensure that any live and/or recorded music at the premises must be played at a level to ensure that it does not disturb residents in the immediate vicinity of the premises.

2. Checks are to be undertaken at the start of any live or recorded music by the DPS or Manager to ensure that the levels are such that they are unlikely to cause a disturbance in the nearest residential properties to the premises. Regular checks are to be undertaken during the course of any live or recorded music (on at least a 30 minute basis) to ensure that the levels are maintained so as to be unlikely to cause a disturbance in the nearest residential properties to the premises.
3. All doors and windows are to be kept closed during regulated entertainment (except for access and egress).
4. A complaints log ('the log') is to be kept and completed at the premises. The log will record any complaints made by members of the public to staff or any complaints received from the local authority or police. As a minimum each log entry will record the date and time of the complaint, the name of the person recording the complaint, the name of the complainant (if given), the nature of the complaint and any action taken to remedy the complaint.

### **Dispersal of customers**

#### **-To replace condition 1 under Public nuisance on the premises licence-**

1. A dispersal policy ('the policy') will be written up and implemented by the DPS or Manager at the premises to ensure, as far as practicable, customers leaving the premises do so quickly and quietly. The policy shall include reference to the following as a minimum:

- Times for the cessation of licensable activities on given days
- The length of any 'Wind-down' periods (where used) after the cessation of regulated entertainment to permit customers to relax prior to leaving
- Expected staff participation in dispersal
- DPS or Manager's role during dispersal at the end of trading

The policy shall be kept on site and shall be made available on reasonable request to any licensing or council officer or police officer,

### **Management of the outside area/garden**

1. A garden management policy ('the GMP') will be drawn up and implemented by the DPS or Manager at the premises to ensure that customers using any outside areas during trading do so without causing undue public nuisance to residents in the immediate vicinity. The GMP will include reference to the following as a minimum:

- The opening and closing times of the garden or any other outside space on any given day
- How often checks will be undertaken of the garden or outside spaces
- Details of any signage to be used to remind customers of the rules relating to the use of the garden/outside spaces
- Details of any designated smoking area to be used at times the garden/outside space is closed to the public in general

- Measures in place to deal with unruly or un-cooperative customers found in the garden
- Reminder to record any complaints in the complaints log

The GMP shall be kept on site and shall be made available on reasonable request to any licensing or council officer or police officer

### **General conditions to be added**

1. A telephone number for the DPS/Manager shall be made available to any residents in the vicinity of the premises or request in order that any complaints can be recorded with immediate effect. Any such complaints are to be recorded in the complaints log.
2. A copy of the Dispersal Policy and GMP shall be lodged with the Licensing Authority. Any amendments to either document must be sent to the Licensing Authority within 48 hours of the changes being made.

In relation to the 'wind-down period' in the dispersal policy, this is specific to regulated entertainment as there are different times for sale of alcohol to regulated entertainment with a 20 minute drinking up time which acts as a wind down for sales of alcohol.

### **Additional Condition relating to the use of the garden**

The garden will close to customers at 22:30 hours with the exception of smokers. After 22:30 hours no drink will be permitted outside. This condition is to have effect until 31 August 2016 whereupon it will cease to have effect.

The meeting commenced at 10.30am and concluded at 11.30am.

Chairman