

APPLICATION BY PUNCH PARTNERSHIPS (PTL) LIMITED FOR A VARIATION TO THE PREMISES LICENCE HELD BY PIER HOTEL 6 HIGH STREET GREENHITHE KENT DA9 9NN.

GREENHITHE

1. Summary

- 1.1 To determine an application to vary a Premises Licence.

2. Background and Discussion

- 2.1 The Licensing Act 2003 (the 2003 Act) requires the Council (as licensing authority) to carry out its various licensing functions so as to promote the following four licensing objectives:

- (1) the prevention of crime and disorder;
- (2) public safety;
- (3) the prevention of public nuisance;
- (4) the protection of children from harm*.

**North Kent Social Services being the responsible authority.*

- 2.2 The 2003 Act further requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The General Assembly of the Council adopted the Council's current Statement of Licensing Policy which applies from 7 January 2014 until 6 January 2019 at its meeting on 16 December 2013 (minute 71). Should the need arise the Policy will be available at the meeting, for reference purposes.

- 2.3 Under the 2003 Act, it is the duty of all licensing authorities that, in carrying out their functions, they must have regard to guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the Guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to

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the Guidance, it will need to give full reasons for its departure from it. This would be a key consideration for the courts should departure from the Guidance result in a determination which gives rise to an appeal or judicial review. Should the need arise; the Guidance will be available at the meeting, for reference purposes.

- 2.4 Applications will be considered on their individual merits and the Sub-Committee will impose any conditions that it considers appropriate to promote the licensing objectives.

3 THE APPLICATION

3.1 Application

The application is to vary a Premises Licence under Section 34 of the Licensing Act 2003 in relation to the premises Pier Hotel – Appendix A

- (a) The Operating Schedule shows the following licensable *activities and trading hours with proposed additional conditions as shown at (g) below:*

- (b) Relevant licensable activities:

- Sale and supply of alcohol for consumption on and off the premises.
- The provision for Recorded music.

- (c) Hours for the sale and supply of alcohol and recorded music :

Friday and Saturday until 00:30

To extend the terminal hour by 1 hour on Fridays, Saturdays, Sundays proceeding all Bank Holiday, Bank Holiday Mondays, Christmas Eve, Boxing Day, 27th, 28th, 29th and 30th December, Bonfire Night and New Year's Day.

New Year's Eve – From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

- (d) Other times premises proposed to be open to the public:

The premises will close 30 minutes after the end of the permitted hours for Licensable Activities.

- (e) The DPS is Phillip Grigg

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- (f) All conditions under Annex 2, Annex 3 Annex 4 and Annex 5 of the on the current licence (appendix B) to be removed and replaced with the conditions shown within the application form.
- (g) Additional conditions proposed to promote the licensing objectives agreed during consultation with Kent Police:

The Designated Premises Supervisor will undertake a risk assessment in respect of the provision of door supervisors for any unusual events and where deemed appropriate a minimum of 2 door supervisors will be employed.

4 RELEVANT REPRESENTATIONS

4.1 Responsible Authorities

- **Police** – The Police have made no representation based on the licensing objectives of ‘crime and disorder’. Conditions detailed above were agreed during the consultation process.
- **Environmental Health Officer** – have made no representation.
- **Planning Officer** – has made no representation.
- **Fire Safety Officer** – has made no representation.
- **Child Protection Agency** – have made no representation.
- **Trading Standards** - have made no representation.

4.2 Interested Parties

Responses were received from local Residents based on the licensing objective of ‘Public Nuisance’ – **APPENDIX C**

4.3 Local Policy Considerations

It is considered that the following Policies have a bearing upon the application and these are summarised at **APPENDIX D**.

4.4 Secretary of State Guidance Considerations

It is considered that the following matters set out in the Secretary of State’s Guidance have a bearing upon the application and these are summarised at **APPENDIX E**.

4.5 Human Rights

The Council has a duty under Article 8 of the European Convention on Human Rights to protect the rights of its residents to privacy and family life. The Council also acknowledges the rights of businesses in its area to operate, but this must be balanced against the rights of residents not

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to be disturbed by unreasonable noise and nuisance caused by licensed premises.

4.6 **Conditions**

In all applications relating to premises licenses the Council expects applicants to specify methods by which they will promote the four licensing objectives in their operating schedules. Even if the applicant does comply with any of the paragraphs listed below, they may not necessarily achieve the promotion of the licensing objectives in a given case. Where appropriate, and in order to promote the four licensing objectives, the Sub-Committee will attach additional conditions to premises licenses.

(a) **The Prevention of Crime and Disorder**

This may, for example, be promoted by employing registered door supervisors, ensuring staff have attained relevant BIIAB qualifications, i.e. the Drugs Awareness Certificate, the Barperson's National Certificate, the Professional Barperson's Qualification etc., incorporating a search policy into the entry conditions of the premises, the location and standard of any CCTV systems on the premises, restrictions on the irresponsible use of 'happy hours' and other drinks promotions.

The applicant proposes to include all conditions outlined in Appendix A

(b) **Public Safety**

This may, for example, be promoted by ensuring that staff has the appropriate training, ensuring that safe capacity limits are set and that there is no overcrowding, that fire-fighting equipment is checked regularly, and that certificates required by the Council are available by the relevant date.

The applicant proposes to include all conditions outlined in Appendix A

(c) **The Prevention of Public Nuisance**

The Council will take particular care to ensure that residents are not disturbed late at night. Where an application is made for a new licence or for an extension of hours beyond 11pm the Council will not grant the application unless satisfied that it will not create an unreasonable disturbance to local residents. However, before refusing a licence on these grounds the Council will consider whether such disturbance may be avoided by the application of conditions.

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The applicant proposes to include all conditions outlined in Appendix A

(i) Noise from Premises

In the case of every premises licence application the Council will consider whether the sound from music and/or customers may escape from the premises, noise from ventilation and other mechanical plant is minimal, steps are taken to ensure patrons and staff leave the premises quietly (including the prominent display of notices to this effect), arrangements are made for patrons to park their cars in a manner that does not disturb or inconvenience local residents and arrangements are made to minimise noise from taxis. Conditions may be imposed to satisfy these considerations.

The applicant proposes to include all conditions outlined in Appendix A

(d) The Protection of Children

This may, for example, be achieved by ensuring children are not admitted to premises on days when adult entertainment is provided, that 'proof of age' cards complying with the Home Office approved Proof of Age Standards Scheme (PASS), such as those promoted by the Portman Group, are required for the supply of alcohol, and that children are not admitted, or allowed to remain on, premises after a certain time.

The applicant proposes to include all conditions outlined in Appendix A

5. Determining the Application

- (a) The Sub-Committee 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.

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- (b) In making its decision, the Sub-Committee is also obliged to have regard to the Secretary of State's Guidance and the Council's adopted Licensing Policy.
- (c) The Sub-Committee must also have regard to all of the representations made and the evidence it hears and must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
 - (i) grant the application as requested;
 - (ii) modify the conditions of the licence, by altering, omitting or adding to them; or
 - (iii) reject the whole or part of the application.
- (d) The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because the Sub-Committee considers it desirable to do so. Modification or rejection must actually be appropriate in order to promote the licensing objectives.

6. **Observations on the Application:**

The Premises is a Public House situated on Greenhithe High Street. The Premises is licenced under the Licensing Act 2003 and has held a Licence since the introduction of the Licensing Act 2003 in November 2005 and previously held a Justices Licence.

The application was received on the 13 September 2018 and the consultation period ran between the 14 September 2018 and the 11 September 2018, during this period blue notices were displayed at the premises and in a local newspaper.

During the consultation period mediation was carried out with the Police and additional conditions were agreed as shown in section 3.1(g) in relation to the Prevention of Crime and Disorder licensing objective.

Representations were received from 4 local residents and the Ward Councillor detailing how granting the licence will have an effect on the licensing objection of Public Nuisance.

7. **Conclusion:**

This application is for the Sub-Committee to determine in light of the above representations, the evidence before it and the promotion of the licensing objectives.

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8. Relationship to the Corporate Plan

Not Applicable.

9. Financial, legal, staffing and other administrative implications and risk assessments

Financial Implications	None
Legal Implications	As included in Secretary of State's Guidance.
Staffing Implications	None
Administrative Implications	None
Risk Assessment	As included in Secretary of State's Guidance.

10. Appendices:

Appendix A: Variation application

Appendix B: current premises licence

Appendix C: Representations from Interested Party

Appendix D: Local Policy Considerations

Appendix E: Secretary of State Guidance Considerations.

BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date</u>	<u>File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
Application Form	13 September 2018		Joanne Philpott 01322 343024	Licensing Strategic	N/A
All other documents mentioned	22 October 2018		Joanne Philpott 01322 343024	Licensing Strategic	N/A