

## **Brighton & Hove City Council**

**For general release/Not for publication**

**Meeting:**                      **Licensing Sub-Committee**

**Date:**                        **6<sup>th</sup> June 2005**

**Report of:**                **Assistant Director – Public Safety**

**Subject:**                **Application for a variation under transitional  
arrangements of the Licensing Act 2003 – The Setting Sun  
Public House, Windmill Street, Brighton**

**Ward(s) affected:** **Hanover Ward**

### **1.      Purpose of the report**

- 1.1      To determine an application for a premise licence and, if the decision is to grant the licence, to attach suitable conditions to ensure the licensing objectives are met.

### **2.      Summary of application**

- 2.1      The application is for:

A variation for the premises licence already granted under 'grandfather rights'. The variation(s) proposed: Performance of Live Music Amplified live music performed by no more than two entertainers, Performance of Recorded Music Amplified recorded music ancillary to sale of alcohol and Sale by Retail of Alcohol on and off premises:

Days and times: - Mon-Wed 10.00-23.00, Thu-Sat 10.00-00.00, Sun 12.00-23.00, PLUS A further additional hour into the morning following every Fri, Sat, Sun and Mon for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend. PLUS, A further additional hour into the morning following every Thurs, Fri, Sat, Sun and Mon for the Easter Bank Holiday weekend. PLUS, A further additional hour into the morning following every St

Patrick's Day, St George's Day, Halloween, Valentine's Day, Guy Fawkes night, Mothering Sunday and Father's Day.

PLUS, A further additional hour every Christmas Eve and Boxing Day.

To reflect existing New Year's Eve/Day hours. PLUS, A further hour into the morning following the Saturday of Gay Pride weekend (usually held in August)

and representations have been made by interested parties.

### **3. Representations received**

3.1 Details of the representations made are on form L57a (Appx.1) and a summary appears below:

- a) Excessive noise levels arising from within the premises
- b) Crowds gathering outside the pub at closing time creating noise audible to people living in the locality
- c) Front doors of premises remain open especially in summer months resulting in noise from patrons and music
- d) Rear doors open in summer months resulting in noise from patrons and music
- e) Patrons using seating outside the pub causing noise and disturbance to local residents

3.2 Written submissions have been made by residents in the vicinity for consideration by this sub-committee.

3.3 Comments from Pollution Team, Environmental Health: no records of noise disturbance arising from the premises appear on departmental database since September 2003.

### **4. Commentary on licensing policy**

4.1 The following extracts from Brighton & Hove Licensing Policy are considered relevant to this application and numbered as they appear in the policy:

- 1.2 The licensing objectives are:-
  - (a) prevention of crime and disorder;
  - (b) public safety;
  - (c) prevention of public nuisance;
  - (d) protection of children
  - (e) from harm.

1.4 Each application will be given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act

1.14 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act, and the conditions attached to licences, certificates and permissions will be focused on matters which are within the control of the licensee and will centre on the premises themselves and their immediate vicinity. When considering these terms and conditions the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

4.2 In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, or as a result of people entering or leaving the premises.

4.3 Applications for new licences or for the extension in size of licensed premises should not normally be granted if the premises will use amplified or live music and operate within or abutting premises containing residential accommodation except that occupied by staff of the licensed premises. A condition may be imposed on new licences that entertainment noise shall be inaudible in any residence.

4.4 Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.

4.7 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.

4.8 Regard will be had to any history or likelihood of nuisance. Generally, favourable consideration will be given to applications for later hours in the city centre and on busy main roads. Powers may be exercised to impose conditions as to hours of opening in order to avoid unreasonable disturbance to residents of the neighbourhood.

7.2 The Licensing Committee represents the general interests of a community. In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives. The Licensing authority is aware of the need to avoid measures which deter live music, dancing and theatre - such as imposing indirect costs out of proportion to the income of the licence holder and to the risks presented. Only necessary, proportionate and reasonable licensing conditions should impose any restrictions on such events.

## COMMITTEE REPORT APPENDIX

### REPRESENTATION NOTIFICATION

ADDRESS OF PREMISES AND TRADE NAME	Setting Sun, 1 Windmill Street, Brighton, BN2 2GN
TYPE OF APPLICATION	Variation of a Premises licence
APPLICANT(S)	Punch Taverns Plc
APPLICANT'S ADDRESS	Jubilee House, Second Avenue, Burton Upon Trent, Staffordshire, DE14 2WF

### DETAILS OF APPLICATION

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SUMMARY OF EXISTING  
CONDITIONS

### DETAILS OF REPRESENTATIONS RECEIVED

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NO. OF OBJECTIONS:	21
SUBSTANCE OF OBJECTIONS:	Extended opening hours and noise levels.

CONTACT OFFICER: Stuart Harley

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Any representation(s) will automatically be heard by a Licensing sub-committee and all interested parties may be heard. Dates and times of such committees will be notified to you in due course. Should the parties involved resolve the issues and the representation(s) is/are withdrawn there will be no need for a hearing.

L57a