

**EAST STAFFORDSHIRE BOROUGH COUNCIL
LICENSING AND GAMBLING SUB-COMMITTEE**

LICENSING ACT 2003

NOTICE OF DETERMINATION

**Application for Variation of a Premises Licence – The Middle Bell,
33 Main Street, Barton under Needwood, Burton upon Trent,
Staffordshire DE13 8AA**

1. Date of hearing: 19th September 2011
2. Date of determination: 19th September 2011
3. Sub-Committee Members: (Chair) Councillor D Brookes
Councillor R J Clarke
4. Officers: Mrs A Goodwill (Pollution, Licensing and Enforcement Team
Leader)
Mrs L Kinsey (Senior Licensing Officer)
Mrs C Ward (Licensing Officer)
Miss Kathryn Saunders (Environmental Health Officer)
Mrs A Wakefield (Solicitor)
5. This was an application for a Variation of a Premises Licence, in respect
of:
The Middle Bell
33 Main Street
Barton under Needwood
Burton upon Trent
Staffordshire
DE13 8AA

Punch Taverns was represented by Mr Gary Hodgson (Solicitor), Mr Adam Cottrill (Designated Premises Supervisor) and Mr Paul Cottrill (Lessee) attended the hearing.

Also in attendance were Inspector Ashley Farrington (Licensing Manager) and Jennifer Mellor (Licensing Officer) – Staffordshire Police.

The following members of the public attended the hearing:

Mr and Mrs Bailey
Mr James Black
Mr Robert Brand
Mrs and Mrs Burton
Mr Crooks
Mr Paul Davy
Mr Andy Garside
Mr Goodall
Mr Hine
Mr Alan and Mrs Diane Hoult
Mr Graham Hughes

Mr Ian Jackson
Councillor Jacqui Jones
Mrs Gladys Kerley
Mrs Mary Knight
Mrs Angela May
Mr and Mrs Muckersie
Mr Gerry Peck
Mr and Mrs Reddings
Mr and Mrs Sherriff
Mr Geoff Shilton
Mr R Trethowan
Mr Tony Wood

The sub-committee heard oral evidence from the following witnesses:

Mrs C Ward, Licensing Officer.

Mr Gary Hodgson (Solicitor) for the applicant.

Mr Bailey (Objector)
Mr James Black (Objector)
Mr Burton (Objector)
Mr Paul Davy (Objector)
Mr Andy Garside (Objector)
Mr Ian Jackson (Objector)
Mrs Gladys Kerley (Objector)

Miss Kathryn Saunders (Environmental Health Officer)
Inspector Ashley Farrington (Staffordshire Police)
Jennifer Mellor (Staffordshire Police)

7. Provisions

The Sub-committee has taken into account the provisions of the Licensing Act 2003, the Guidance issued under Section 182 of the Act, and its Statement of Licensing Policy.

8. Decision and Reasons

As a preliminary matter the members of the Sub-Committee considered whether all the objectors who had made representations were "interested parties" for the purposes of the Licensing Act 2003. In order to answer that question the members gave consideration to whether all of those individuals were "a person living in the vicinity of the premises". The objections contained at appendices 20, 21 and 61 of the Agenda had been made by email, contained no postal address and the authors of the emails had not responded to a request by the licensing officers for that information. It was not possible for the members to assess whether those people lived in the vicinity of the Middle Bell and for that reason the members could not take those representations into account. The authors of the representations at appendices 22 and 42 lived in Wychnor Park and Morrey, Yoxall respectively and the members determined that they were not persons living in the vicinity of the Middle Bell. The members concluded that the same was true of the

author of the representation at appendix 44 who lived at Barton Gate, the author of the representation at appendix 45 who lived at 101 Main Street, the author of the representation at appendix 46 who lived at 4 Main Street and the author of appendix 57 who lived at 95 Main Street. The members then turned their attention to the remaining representations and determined that the objectors who resided at Bell Lane and Bell Mews, St James Court and Main Street (other than those at 101, 4 and 95 Main Street) lived in the vicinity of the Middle Bell and were interested parties.

That being the case the members examined those objectors' representations to determine whether they were "relevant representations" as defined in the Licensing Act 2003. In order to establish that the members considered whether the representations made related to the likely effect of the variation of the licence on the promotion of at least one of the four licensing objectives. The members concluded that they had received relevant representations under the prevention of crime and disorder and prevention of public nuisance heads.

8.1 Determination of application

The Sub – Committee granted the application to vary the premises licence **subject to the amendments to the application outlined** in Messrs Ford and Warren's email to the Licensing Authority attached to this Notice **and subject too to the conditions** put forward by Staffordshire Police with the exception of the first two conditions under the heading "**Prevention of Crime and Disorder**". Those conditions are also attached to this Notice of Determination.

8.2 Reasons

The members took account of the relevant written representations of the interested parties and they heard oral evidence from eight interested parties. The members also took into account the written representations of Barton under Needwood Parish Council; Councillor Julia Jessel; Councillor Jacqui Jones and Councillor Sonia Andjelkovic. The members also had regard to the oral representations of Mr Hodgson and Staffordshire Police. The members also noted the Environmental Health Officer's evidence that the licensee had indicated that it would work with the Council's Environmental Health team to implement a noise management plan, although the members also noted that no details had yet been agreed. The Environmental Health Officer's objections to the application had been answered by the fact that the licensee would co-operate in the preparation of a noise management plan.

The Sub – Committee were aware that the original application for variation would have had the effect of allowing the premises to remain open until 2.30 a.m. every day with licensable activities taking place until 2.00 a.m. every day. The Sub – Committee were also aware that the licensee's solicitors had emailed the Council's Licensing team on Friday 16 September to inform them that the hours sought for both licensable activities and opening times had been curtailed. That email is attached to this Notice of Determination.

The members heard from the Police that their objections to the application would be overcome by the imposition of the conditions attached to this notice of determination. Among other things those conditions would ensure that no-one could drink outside the premises after 11.00pm and that all doors and windows

should be kept closed after 11.00pm whenever regulated entertainment was taking place.

The members took into account the fact that they were told that the licensee intended to engage fully with its neighbours in order to ensure that those neighbours did not suffer nuisance or experience disorder as a result of the operation of the premises. The members were also satisfied that the licensee appreciated the consequences of mismanagement of the premises and was aware that interested parties or a responsible authority could seek a review of the premises licence in the event that the premises was a cause of nuisance or of crime and disorder.

The members considered the conditions suggested by Staffordshire Police and decided that none of the evidence put to it supported the need for door staff at the premises. The members were of the view that the other conditions should be attached to the premises licence in order to ensure that each of the licensing objectives was met.

9. Rights of appeal

Schedule 5 of the Licensing Act 2003 contain provisions as to rights of appeal. A copy of that schedule will accompany the written decision.