

Item 6 Application for Review of a Premises Licence – The Piston Broke, London Street, Andover SP10 2NU

1 The application

- 1.1 The application is by the Environmental Health Manager of Test Valley Borough Council requesting a Review of the Premises Licence for the premises known as The Piston Broke, 43 London Street, Andover SP10 2NU. The application is requested in accordance with the provisions of Section 51 of the Licensing Act 2003.
- 1.2 The premises benefits from a Premises Licence permitting regulated entertainment (by way of films, indoor sporting events, live music, recorded music, performances of dance, anything of a similar description to live or recorded music or performances of dance and provision of entertainment facilities for making music or dancing or entertainment of a similar description), provision of late night refreshment and supply of alcohol for consumption on the premises. The current Premises Licence was issued on 26 March 2010 and permits the provision of entertainment and supply of alcohol until 0130 hours and the provision of late night refreshment until 0200 hours. A copy of the existing licence is attached as Annex 1 to this report.
- 1.3 The application requesting a Review relates to the licensing objective of the prevention of public nuisance. The application for a Review requires the matter to be determined at a hearing. A copy of the application and supporting document is attached as Annexes to this report and referred to below.

2 Background

- 2.1 The premises are an established bar within Andover town centre. The premises originally opened in 2005 as the Cellar Bar Bistro and then after a period of closure re-opened under new ownership in 2008 trading as Twenty Five. The premises traded under this name for over a year before again a period of closure followed and the current premises licence holder took over in March 2010. The licensed premises comprise the ground floor and basement.
- 2.2 The Review application attached as Annex 2 to this report outlines the position regarding the premises and summarises incidents leading to the calling of a Review. The Review application indicates that it was only following the transfer of the Licence to Elland Promotions Limited that the Environmental Health Unit began to receive complaints about the premises. The first incident occurred in May 2010 and subsequent incidents took place with the most recent being one in April 2011.

- 2.3 The Review application states “that unreasonable disturbance is being caused by The Piston Broke on a regular basis to their residential neighbours. Therefore this review is called in the interests of the prevention of public nuisance.”

3 Grounds for the Review

The applicant states the grounds for the review in their application. In addition the Environmental Health Manager has provided the following additional documentation in support of their application:

Map of premises location – Annex 3

Copy of letter to Premises Licence holder dated 23 July 2010 – Annex 3

Copy of letter to Premises Licence holder dated 11 August 2010 – Annex 3

Copy of letter to Premises Licence holder dated 20 August 2010 – Annex 3

Additional information – Annex 4

4 Relevant Representations – Responsible Authorities

- 4.1 **Hampshire County Council Trading Standards Service** – does not wish to make a representation.
- 4.2 **Test Valley Borough Council Planning and Building Service** – raises an objection to the existing operation [of the premises] based on the findings of the Environmental Protection Officers, it appears that it is clear that the premises are being operated in such a way that causes, and thus fails to prevent, public nuisance as a result of noise, which causes harm to the residential amenities of occupants in the immediate vicinity. The Service would support the concerns of the Environmental Protection Officers.
- 4.3 **Test Valley Borough Council Environmental Health Unit** – the Commercial Team have no comments to make in respect of the licensing objective of public safety.
- 4.4 **Hampshire Constabulary** – support the application for review and have submitted their own representation in respect of the licensing objective of the prevention of crime and disorder. The Police have concerns over what they consider to be the disproportionate amount of crime and disorder associated with the premises. Their concerns are documented in Annex 5 to this report.
- 4.5 **Hampshire Fire and Rescue Service** – does not wish to make a representation.
- 4.6 **Hampshire County Council Safeguarding Unit** – does not wish to make any representation but supports the Review.

5 Relevant Representations – Interested Parties

- 5.1 There are no representations from interested parties.

6 Policy Considerations

- 6.1 It is considered that the following extracts from the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 are relevant.

2.1-2.18 – Crime and disorder
2.19-2.28 – Public safety
2.32-2.39 – Public nuisance
3.8-3.11 – Regulated entertainment
9.19-9.28 – Hearings
10.1-10.18 - Conditions
11.1-11.22 – Reviews

A copy of the Secretary of State's Guidance will be provided at the meeting for Members of the Committee. Additional copies can be obtained from the Home Office website.

- 6.2 It is considered that the following extracts from the Licensing Authority's own Statement of Licensing Policy are relevant to this application:

Section A: Prevention of Crime and Disorder

Section C: Public nuisance

The Statement of Licensing Policy has been provided to Members of the Committee. Additional copies will be provided at the hearing. Copies can also be obtained from the Licensing Section of the Legal and Democratic Service or downloaded from the Council's website.

7 Observations

- 7.1 The Committee is obliged to determine this application with a view to promoting the four licensing objectives of prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm. In making its decision, the Committee is also obliged to have regard to the national Guidance and the Council's own Statement of Licensing Policy. The Committee must also have regard to all of the representations made and the evidence it hears. The Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:
- a) Modify the conditions of the Premises Licence, by altering or omitting or adding to them.
 - b) Exclude a licensable activity from the scope of the licence.
 - c) Remove the Designated Premises Supervisor.

- d) Suspend the licence for a period not exceeding three months.
- e) Revoke the licence.

The Committee is asked to note that it may not undertake any of the above steps merely because it considers it desirable to do so. It must actually be necessary in order to promote one or more of the licensing objectives:-

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

The Committee may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent the Committee issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that the licensing authority will regard such a warning as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the Police have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, the Committee should not merely repeat that approach.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
Application for a Review of Premises Licence number PREM/10/0397 for The Piston Broke, London Street, Andover and all associated paperwork			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	5		
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